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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Blessed God, our Father, You have shown us that there is great spiritual power in praise. When we praise You, our minds and hearts are opened to Your Spirit, burdens are lifted, problems are resolved, and strength is released. So we join our voices with the Psalmist: ''I will tell of all Your marvelous works. I will be glad and rejoice in You; I will sing praise to Your name, O Most High.''—Psalm 9:1–2.

We confess that often it is difficult to praise You in troublesome times and with frustrating people. And yet it is when we deliberately praise You for them that we receive fresh inspiration. Help us remember what You have taught us: Praising You for the most challenging situations and contentious people transforms us and our attitudes as well as them.

Give us greater confidence in Your inner working in people and Your unseen, but powerful, presence in every situation. Again we join the Psalmist, ''Because Your lovingkindness is better than life, our lips shall praise You. Thus I will bless You while I live.''—Psalm 63:3–4a. This is a day to praise You, O Lord! Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 13, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CORZINE thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Thank you, Mr. President.

ORDER OF PROCEDURE

Mr. REID. The Senator from Pennsylvania is in the Chamber. Under the order, we are to begin consideration of the farm bill at 9:40.

I ask unanimous consent that the Senator from Pennsylvania be recognized for 4 minutes to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleague for yielding me the time.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1937 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1731, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1731) to strengthen the safety net for agricultural producers, 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.

Pending:

Daschle (for Harkin) amendment No. 2471, in the nature of a substitute.

Daschle motion to reconsider the vote (Vote No. 377—107th Congress, 1st session) by which the second motion to invoke cloture on Daschle (for Harkin) amendment No. 2471 (listed above) was not agreed to.

Lugar (for Kyl/Nickles) amendment No. 2850 (to amendment No. 2471), to express the Sense of the Senate that the repeal of the estate tax should be made permanent by eliminating the sunset provision's applicability to the estate tax.

Lugar (for Domenici) modified amendment No. 2851 (to amendment No. 2471), to require the Secretary of Agriculture to make payments to milk producers.

Harkin (for Kerry/Snowe) amendment No. 2852 (to amendment No. 2471), to provide emergency disaster assistance for the commercial fishery failure with respect to Northeast multispecies fisheries.

Reid (for Conrad) amendment No. 2857 (to amendment No. 2471), to express the Sense of the Senate that no Social Security surplus funds should be used to pay to make currently scheduled tax cuts permanent or for wasteful spending.

TEXT OF AMENDMENT 2834, AS MODIFIED

On page 2, line 10, after the word ''forestry,'' insert: ''or commercial fisheries''.

AMENDMENTS NOS. 2857 AND 2850

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:40 a.m. having arrived, there will now be a total of 10 minutes debate equally divided on the Conrad amendment No. 2857 and the Kyl amendment No. 2850.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Who yields time? The Senator from North Dakota.

Mr. CONRAD. Mr. President, if the Chair would alert me when I have used 4 minutes.

The ACTING PRESIDENT pro tempore. The Chair will do so.

Mr. CONRAD. Mr. President, the Conrad amendment states the following:

Since both political parties have pledged not to use Social Security surplus funds by spending them for other purposes, and since under the administration's fiscal year 2003 budget the Federal Government is projected to spend Social Security surplus funds for other purposes in each of the next 10 years, and since permanent extension of the inheritance tax repeal would cost, according to the administration's own estimate, approximately $104 billion over the next 10 years, all of which would further reduce the Social Security surplus, therefore, it is the sense of the Senate that no Social Security surplus funds should be used to pay to make currently scheduled tax cuts permanent or for wasteful spending.

Here is where we are. There are no surpluses left. This chart shows, from 1992 to 2012, the fiscal condition of the country. It shows that, while we were able to avoid using Social Security funds or most of the Social Security funds for 4 years, we have now gone back to the old, bad ways of taking every dime of Social Security funds for other purposes—for the President's tax cuts and for other spending priorities.

This is something we all pledged not to do. It is not just in the context of the economic downturn and the war. It is a condition that will confront us the entire rest of this decade, as this chart shows.

Where did the money go? The Congressional Budget Office tells us over the 10-year period 42 percent of the reason for the return to deficits is the tax cut the President proposed and pushed through Congress last year; 23 percent is a result of the economic downturn; 18 percent results from the additional defense and homeland security costs necessitated by our response to the attack on our country; 17 percent came about as a result of technical changes, largely underestimations of the cost of Medicare and Medicaid.

Last year we were told we would have $2.7 trillion of non-trust-fund surpluses over the next decade. That is where the President's tax came from. Now that entire projected surplus is gone, and what we are left with is deficits of $2.2 trillion—every dime of it being financed by the Social Security and Medicare trust funds under the President's proposal.

Last year we were told we would be paying down $2 trillion of debt in the next 10 years. Now the administration informs us that will be only $521 billion.

The consequence of more debt is that we will be paying $1 trillion more in interest costs than we were told last year. That means $1 trillion not available to improve the defense of the country or to strengthen homeland security or to pay down the debt.

Now the Senator from Arizona comes and says we ought to dig the hole deeper. The Senator from Arizona says: We ought to make permanent the estate tax elimination that was part of the tax bill last year. That would cost $104 billion for the rest of this decade, and over the next decade it would cost $800 billion, right at the time the baby boomers begin retiring in large numbers.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. CONRAD. Mr. President, this is where we are headed. In 2016, the Social Security trust funds turn cash negative. Then these surpluses that are being used to pay for tax cuts and other expenses of Government are going to vanish, and instead we will have massive deficits.

I urge my colleagues to support the Conrad amendment, to say no to making permanent tax cuts that would be financed out of the Social Security trust funds. Every Member, virtually every Member, has pledged not to do that. This is the time to reaffirm that commitment to the integrity of the trust funds.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Arizona.

Mr. KYL. Mr. President, the problem with the argument of the Senator from North Dakota is that there is not one shred of truth to it. It is absolutely false to contend that we are going to be spending Social Security surplus funds on ''permanentizing'' the repeal of the death tax. It is simply false.

I ask unanimous consent to print in the RECORD the budget estimates from President Bush's 2003 budget submission which demonstrates this fact.

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

BUDGET ESTIMATES—PRESIDENT BUSH'S 2003 BUDGET SUBMISSION

[In billions of dollars]

	2008	2009	2010	2011	2012	2003–2012
Baseline non-social security surplus	17	51	99	199	395	463
Effect of extending death tax repeal	−3	−3	−4	−25	−61	−104
Resulting non-social security surplus	14	48	95	174	334	359

Source: President's 2003 budget, OMB.

Mr. KYL. Mr. President, what this shows is that during the period of time we are talking about, we are going to have a non-Social Security surplus of almost a half trillion dollars, $463 billion to be exact.

The Senator from North Dakota can't have it both ways. In his resolution he uses these statistics to calculate how much a permanent repeal of the death tax is going to cost and says it is $104 billion over 10 years. That is what the budget says. But you can't use that statistic and then ignore the other half of the equation, which is that during the same period of time we will have a surplus of $463 billion. That doesn't count any of the Social Security surplus.

If you subtract 104 from 463, you are not even close to getting to the Social Security surplus. You still have a significant $359 billion surplus, plus Social Security.

I ask my colleague this: I would be happy to support his resolution if he would be willing to drop the clause that says it is going to cost $104 billion over the next 10 years, all of which would further reduce the Social Security surplus, since that is a false statement, and also if he would drop the sentence ''Under the administration's fiscal budget, the Federal Government is projected to spend the Social Security surplus for other purposes in each of the next 10 years,'' because that also is demonstrably false under the President's budget submission. Would the Senator from North Dakota be willing to drop those provisions of his amendment, in which case I would be happy to support it and urge my colleagues to do the same?

Mr. CONRAD. I have no intention of dropping those statements which accurately reflect precisely what the President's budget——

Mr. KYL. If the Senator from North Dakota is not willing to amend his resolution, then I will have to urge my colleagues not only to oppose his resolution, because it is simply false in its recitations and is an inaccurate portrayal of what we are going to be doing, but, secondly, it totally misrepresents the effect of our resolution, our sense of the Senate which is very straightforward.

It says: We voted to repeal the death tax. Let's make that permanent. Let's not try to play games with the American people and say we did something which we all know is only going to be in effect for 1 year after which it sunsets.

I defer to my colleague from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. How much time remains?

The ACTING PRESIDENT pro tempore. Two minutes.

Mr. NICKLES. On the other side?

The ACTING PRESIDENT pro tempore. Eight seconds.

Mr. NICKLES. Mr. President, I urge my colleagues to support the Kyl-Nickles-Gramm-Sessions amendment to make the death tax repeal permanent. To say we are going to reduce the death tax for the next 9 years, have it go to zero in the year 2010, and then in the year 2011 we are going to have a big increase and go back to death tax rates of 50 or 60 percent is absurd. We need to make it permanent.

This is a sense of the Senate that says it should be permanent. I believe there is a competing resolution offered by my colleague that says: Wait a minute. This is going to take Social Security money. That is not correct. My colleague is entitled to his own

opinion. He is not entitled to his own facts. The facts are projected by OMB.

The administration's estimate by OMB is that we are going to have a $99 billion surplus in the year 2010, $199 billion in the year 2011, and $395 billion in 2012. That is not counting Social Security. That is over and above Social Security. Those are the administration's estimates. So we ought to be factual. I don't mind the ''therefore, it is the sense of the Senate that the Social Security surplus funds should not be used to make currently scheduled tax cuts permanent or for wasteful spending.'' Who is for wasteful spending? The part of this that says the $110 billion would be used to reduce Social Security is not factual.

You should not be using a death tax to pay for Social Security in the first place. But it is not in this resolution or in the amendment offered by my friend and colleague from Arizona.

I urge my colleagues, let's do something for agriculture that would be positive and repeal the death tax. Talk to your farmers and ranchers and small businesspeople. Is there something you can do to help them? Yes, repeal the death tax. The Government should not take one-half of somebody's property just because they die. Let's make the death tax repeal permanent.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, Senator KYL talks about the budget baseline. He is not talking about the President's budget. I submit the President's budget that shows clearly it will be raiding the Social Security trust fund by $1.6 trillion over the next 10 years, and add to it, if we pass the Kyl amendment.

The ACTING PRESIDENT pro tempore. All time has expired. Under the previous order, the question is on agreeing to the Conrad amendment No. 2857.

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Utah (Mr. BENNETT) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—98

Akaka	Bunning	Collins
Allard	Burns	Conrad
Allen	Byrd	Corzine
Baucus	Campbell	Craig
Bayh	Cantwell	Crapo
Biden	Carnahan	Daschle
Bingaman	Carper	Dayton
Bond	Chafee	DeWine
Boxer	Cleland	Dodd
Breaux	Clinton	Dorgan
Brownback	Cochran	Durbin
Edwards	Kennedy	Roberts
Ensign	Kerry	Rockefeller
Enzi	Kohl	Santorum
Feingold	Kyl	Sarbanes
Feinstein	Landrieu	Schumer
Fitzgerald	Leahy	Sessions
Frist	Levin	Shelby
Graham	Lieberman	Smith (NH)
Gramm	Lincoln	Smith (OR)
Grassley	Lott	Snowe
Gregg	Lugar	Specter
Hagel	McCain	Stabenow
Harkin	McConnell	Stevens
Hatch	Mikulski	Thomas
Helms	Miller	Thompson
Hollings	Murkowski	Thurmond
Hutchinson	Murray	Torricelli
Hutchison	Nelson (FL)	Voinovich
Inhofe	Nelson (NE)	Warner
Inouye	Nickles	Wellstone
Jeffords	Reed	Wyden
Johnson	Reid	

NOT VOTING—2

Bennett Domenici

The amendment (No. 2857) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the next series of votes be 10 minutes in duration.

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

Under the previous order, the question is on agreeing to the Kyl amendment No. 2850.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Utah (Mr. BENNETT) are necessarily absent.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—56

Allard	Frist	Nelson (FL)
Allen	Gramm	Nelson (NE)
Baucus	Grassley	Nickles
Bayh	Gregg	Roberts
Bond	Hagel	Santorum
Brownback	Hatch	Sessions
Bunning	Helms	Shelby
Burns	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Cochran	Johnson	Specter
Collins	Kyl	Stevens
Craig	Landrieu	Thomas
Crapo	Lincoln	Thompson
DeWine	Lott	Thurmond
Ensign	Lugar	Voinovich
Enzi	McConnell	Warner
Feinstein	Miller	Wyden
Fitzgerald	Murkowski	

NAYS—42

Akaka	Breaux	Carper
Biden	Byrd	Chafee
Bingaman	Cantwell	Clinton
Boxer	Carnahan	Conrad
Corzine	Hollings	Mikulski
Daschle	Inouye	Murray
Dayton	Jeffords	Reed
Dodd	Kennedy	Reid
Dorgan	Kerry	Rockefeller
Durbin	Kohl	Sarbanes
Edwards	Leahy	Schumer
Feingold	Levin	Stabenow
Graham	Lieberman	Torricelli
Harkin	McCain	Wellstone

NOT VOTING—2

Bennett Domenici

The amendment (No. 2850) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2851, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes debate prior to a vote in relation to the Domenici amendment, No. 2851, as modified. Who yields time?

Mr. LUGAR. Mr. President, I yield 1 minute in favor of the amendment to myself.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the Domenici amendment is a straightforward and simple amendment. It says, if we are going to have a dairy support program in the country, it should be fair and equitable for all dairymen. Currently, the bill provides for $2 billion, split 25 percent for New England, although New England provides only 18 percent of the milk. There are other inequities throughout. The Domenici amendment simply says treat everybody the same throughout the country.

It likewise does away with a lot of bureaucratic, complex maneuvers in terms of trying to compute this formula, changing it to a straightforward, once-a-year payment, the same for every dairyman. Because of the equity of the amendment and its simplicity, I commend the amendment to Senators and ask for their vote.

Mr. HARKIN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the Domenici amendment is a reflection of failed policies. What it basically says is you pay dairy farmers when markets are good. But when the markets are bad, as Senator LANDRIEU has pointed out time and time again, there is too little help for our dairy farmers. That makes absolutely no sense.

Second, we have a balanced dairy program in the bill, carefully crafted, so that no parts of the country are discriminated against. What the Domenici amendment does is it upsets that. It will foster regional fights again and again and again in the future. We do not want that. We have it carefully crafted in this bill.

Third, we just overwhelmingly voted for payment limitations, but in the Domenici amendment, no matter how

big you are, you can get more and more payments. There is no payment limitation whatsoever, no matter the size of the dairy operation.

For those three reasons, I believe the Senate should turn down the Domenici amendment and keep the underlying bill that is fair to the whole country.

Mr. BINGAMAN. Mr. President, I rise today in support of the dairy amendment by my friend and colleague, Senator DOMENICI. I do believe this amendment is an improvement to the dairy provision in the Daschle/Harkin substitute the Senate is now considering. I urge my colleagues to support the amendment.

I believe a market-oriented approach is the right approach for national dairy policy. The existing price support program and the federal milk marketing orders have served the producers and consumers for many years and I am pleased the farm bill extends the price support program until 2006.

The Dashle-Harkin substitute creates a new $2 billion federal dairy payment scheme. Mr. President, the independent Food and Agricultural Policy Research Institute has analyzed the dairy provisions in the substitute. The analysis shows that during the five years of this farm bill, the new federal payments will encourage overproduction and drive down market prices. For the first two years of the farm bill, producer income is up because of the federal payments. But by the third year, the federal payments drop off dramatically and producers are actually worse off for the final two years of the farm bill. Moreover, the market prices for milk used for cheese, butter, and powdered milk are lower every year.

I don't believe the nation will be well served by the new dairy payment scheme in the Daschle/Harkin substitute. That's why I proposed an amendment last month with Senator CRAPO to eliminate the new dairy payment program. Our amendment failed on a vote of 51 to 47.

Though I do not support creating any new dairy payment program, I support this modest amendment because it recognizes the fact that the dairy industry in America has become one national market. Today, milk and milk products are transported long distances economically to meet the needs of consumers in every state. Mr. President, competition encourages efficiency and consumers benefit from national markets.

Unfortunately, the bill as it now is divides the country into two markets. One for 12 Northeast States where producers receive one federal payment for their milk and another one for producers in the other States with a different federal payment. No other agricultural commodity is treated this way in this farm bill. Producers in the 12 States will receive 25 percent of the federal payments, though they produce less than 18 percent of the nation's milk. Moreover, farmers in the 12 States are guaranteed a payment of nearly $17 dollars per hundredweight, while payments elsewhere are based on a fraction of the market rates and undoubtedly will be substantially lower. This amendment combines the two regions and treats producers in every State equally.

Another concern I have with the underlying language is that it is not fair to all farmers. Federal payments would be capped at 8 million pounds, which will put producers in New Mexico at a serious disadvantage in marketing their milk. Because of the cap, producers in New Mexico would receive an average of less than 20 cents per hundredweight for their milk—48th out of the 50 States. Only farmers in Arizona and Wyoming would do worse than New Mexico. Under our amendment, all producers are paid at the same rate.

Finally, we have not fully considered the boundary effects of the new dairy payment scheme. What's going to happen to producers in States like Ohio and Virginia, which border the 12-State region? Will the higher federal payment to producers inside the region hurt the producers just outside the region? Under our amendment, there are no boundary effects because there is only a single, nation-wide payment rate.

New Mexico has one of the nation's fastest growing dairy industries, more than tripling in the past 10 years. In 2001, New Mexico moved up from the tenth to the eighth largest dairy producing State. More recently New Mexico has moved into seventh place. A recent study by Dr. Michael Looper of New Mexico State University showed the dairy industry payroll in New Mexico in 2000 was $25 million per year and the total annual economic impact in the State was $1.6 billion. In Chavez County alone, the economic impact of milk production was a whopping $527 million per year. Dairy is now a critical element of my State's economy, especially in rural areas. I cannot support any new federal program that could endanger New Mexico's vibrant dairy industry.

New Mexico tends to have large, efficient dairies, which are the big losers under the current dairy proposal. These are family-owned dairies in rural areas—just like in the other States. They are bigger because New Mexico has the land and resources to support larger dairies. This amendment is good for the diary farmers in New Mexico and a positive improvement to the underlying bill because it treats farmers in every State equally.

I believe we should work toward a balanced national dairy policy that is fair to all farmers, not one that pits one State against another and large dairies against small producers.

I hope the Senate will soon complete work on this farm bill and I look forward to working with Chairman HARKIN to further improve the dairy programs as the bill moves to conference. I do believe this amendment is a step in the right direction

I commend Senator DOMENICI for his amendment and urge my colleagues to support it.

Mrs. FEINSTEIN. Mr. President, I spoke on the floor in December about how devastating the original farm bill would have been to the California diary industry. And I have said California cannot be left out of any dairy equation.

California is the largest dairy State in the nation. Last year, California dairy farmers produced 32.2 billion pounds of milk—over 19 percent of the nation's supply. With over 2,100 dairy farms in the state, California leads the Nation in total number of milk cows at approximately 1.5 million. The original bill agreed to in the Agriculture Committee would have cost California dairy farmers $1.5 billion over 9 years and driven up prices for consumers by $1.5 billion over 9 years.

The bill on the floor, however, will hold California harmless. While it is difficult to project exactly how much income California dairy farmers will receive, I believe that by supporting the dairy language in the farm bill, an even better result can be achieved for California's dairy farmers. I wish to thank a number of Senators for working together to find a way that the California dairy industry can be held harmless by the dairy provisions in the farm bill.

While the amendment offered by the Senator from New Mexico might seem like a better deal for California than what has been agreed to in the farm bill, I believe the California dairy industry will be better off in the long run if I continue to support the careful balance achieved during the farm bill debate in December. In theory, the amendment offered by the Senator from New Mexico would be good for California because there are no caps, or limitations, on the size of the dairies that will qualify for payments.

However, the California dairy industry is at the point where they believe, like many other farm groups, that we need to get a farm bill passed in the Senate and get to conference. Voting against the Domenici amendment will allow us to pass a bill. A vote for the amendment will bring it down. I will keep a close eye on the conference negotiations and expect California to continue to be held harmless, or made better off.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I move to table the Domenici amendment. 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 motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Utah (Mr. BENNETT) are necessarily absent.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—56

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Biden	Edwards	Miller
Bond	Feingold	Murray
Boxer	Feinstein	Nelson (NE)
Breaux	Grassley	Reed
Byrd	Gregg	Reid
Cantwell	Harkin	Rockefeller
Carnahan	Hollings	Santorum
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Johnson	Smith (NH)
Clinton	Kennedy	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stabenow
Corzine	Landrieu	Torricelli
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden
Dodd	Lieberman	

NAYS—42

Allard	Fitzgerald	McConnell
Allen	Frist	Murkowski
Bayh	Graham	Nelson (FL)
Bingaman	Gramm	Nickles
Brownback	Hagel	Roberts
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (OR)
Cochran	Hutchison	Stevens
Craig	Inhofe	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Ensign	Lugar	Voinovich
Enzi	McCain	Warner

NOT VOTING—2

Bennett	Domenici

The motion was agreed to.

Mr. LUGAR. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2852

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate prior to a vote in relation to the Kerry-Snowe amendment No. 2852.

Who yields time?

Ms. SNOWE. Mr. President, I am delighted to cosponsor Senator KERRY's important amendment which would provide necessary assistance to a collapsing commercial groundfish fishery. I urge my colleagues to join me in supporting it.

This amendment addresses a very serious problem facing the Northeast, a collapse of its groundfish fishery. This fishery provided over 80 million pounds of food for our Nation last year. This collapse is comparable to a crop failure and is equally deserving of our assistance.

The Federal Government has issued three times the number of permits as the fishery can sustain. The fishermen are now being held accountable for the government's actions and subjected to draconian management measures as a result. We need to help them permanently remove some of this extra capacity.

In particular, the fishermen who rely on catching cod and other groundfish are in need of assistance. This amendment provides $10 million in disaster assistance for these commercial fisherman. It will bring much needed help to those fishermen who need and more importantly want help.

As a voluntary program, this amendment will extend a helping hand to those fishermen who wish to make a transition and permanently exit the multispecies groundfish fishery in the Northeast by giving the Federal Government the means to provide assistance. Additionally, I have worked with Senator KERRY to develop language that ensure the equitable and efficient distribution of this aid.

In my home State of Maine, fishing is an integral part of our livelihood, a common thread that runs along our coast and throughout the State. Unfortunately, we are at a time where fisheries in Maine are in trouble and in need of help. This amendment would provide the needed help.

It is not often that we are presented with a win-win situation, like we are here. Not only will this amendment provide the funding and flexibility needed to help fisherman, but it will promote conservation of the fishery.

I am pleased to support an amendment that will provide the necessary funding and framework to meet one of the many challenges facing our fisherman. Again, I would like to thank Senator KERRY for sponsoring this amendment, and I urge my colleagues to support it.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the Kerry-Snowe amendment, and thank Senator KERRY and Senator SNOWE for their leadership in bringing this important proposal before the United States Senate.

The Atlantic Northeast Multispecies Fishermen Permit Buyback Program established under this amendment would allow hard-working New England fishermen to retire from this economically stressed industry with dignity, while the work continues to rebuild our fish stocks to sustainable levels.

This fishermen's permit buyback will help end the cycle of boom and bust that plagues our fisheries and assist in developing a long-term sustainable fishery in New England.

Fishing has been an important industry in the United States. In my own state of Massachusetts, as in other states, it is a trade that is rich in tradition. Generation after generation of families has passed on their knowledge of this trade to their children. So it is not just a key part of our economy. It is also as much a part of our heritage as the family farm.

Many port cities across the country rely on fishing as their main industry. This is particularly true in Massachusetts. The city of New Bedford, Massachusetts is the second biggest fishing port in the United States. And we have in our state more than 10,000 fishermen who rely on the sea to earn a living and care for their families.

Over the past few years, we have taken a number of steps to help these hardworking families and this important industry.

The fishermen in Massachusetts did not have health insurance until the State and Federal Government intervened. In fact, even though this is one of the most dangerous occupations in the world, our fishermen did not have health insurance until 1998. Today, as a result of our efforts, 800 fishermen and their families now have health care.

Fishermen have also suffered because of Federal regulations. As a result of federal actions over the past decade, fishing has declined, and the incomes of these families has plummeted as a result.

In recent times, the National Marine Fishing Service has taken steps to help rebuild the fish stocks. The fishing season has been shortened from twelve months to six months and there are catch limits to prevent overfishing of fragile stocks.

At the same time, fishermen have adapted to the changes and working with scientists at the National Marine Fishing Service to help both the fishermen and the government to better understand the steps necessary to protect fishing stocks, while protecting fishing jobs.

For example, in 1999, the scallop industry off George's Bank was set to be closed because it was believed that the scallop stocks were depleted. Scientists and the fishermen worked with NASA to obtain satellite photographs of scallop beds of George's Bank. They were able to get accurate pictures of the scallop beds and found that stocks were full.

This past year the scallop industry logged a record year, with profits over $350 million. This is an example of how science has helped the fishing industry, and is the kind of cooperation that should be supported.

The fishermen have also made changes to their equipment to minimize damage to the environment and fishing stocks.

Preserving this historic industry will be an ongoing challenge. And the Kerry-Snowe amendment moves us ahead in meeting that challenge.

Mr. HARKIN. Mr. President, we have examined this amendment on our side, and we have no objection to this amendment. We are willing to accept this amendment to help the fisheries in the northeastern part of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, we are prepared to accept this amendment. We are hopeful that the fisheries that will be helped by it will move toward a healthier situation generally for fishing in New England.

We have consulted with our Senators from New England. This is a very important issue for them and to others in the industry. For these reasons, we are prepared to support the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2852.

The amendment (No. 2852) was agreed to.

Mr. HARKIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. LUGAR. Madam President, during these moments while we are attempting to work out the managers' amendment, I would like to take a few minutes to thank the distinguished chairman of the committee, Senator HARKIN, and his staff for their remarkable work and cooperation with members of our staff as we have worked in the Agriculture Committee. I thank also the leaders, Senator DASCHLE and Senator LOTT, Senator NICKLES, and particularly Senator REID, who has guided this process with great persuasion and effectiveness.

I wanted to mention by name each of the members of the Agriculture Committee minority staff to whom I am greatly indebted for their expertise, their faithfulness, and their patience. I commend Katie Boots, Danny Spellacy, Andy Morton, Carol Dubard, Chris Salisbury, Beth Bechdol, Dave Johnson, Erin Shaw, Michael Knipe, Walt Lukken, Terri Nintemann, Jeff Burnam, Andy Fisher, Mark Tyndall, and Keith Luse, who has headed this effort so ably.

We have also had detailees to the committee. From GAO, we had Pat Sweeney, and from USDA, Carol Olander, Dave White, and Benjamin Young. I thank them all, as I know my colleagues do, for their remarkable work.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Arizona.

Mr. MCCAIN. Madam President, I apologize to my colleagues for holding up the proceedings of the Senate on this very important legislation, but at some point someone has to say ''enough.''

When I first came to the Senate, which was not as long ago as a number of the other Members, a package of technical amendments was sometimes two, three, four, five amendments that were purely technical in nature. We now have a new Senate record. This package of technical amendments, the managers' package which has been subject to neither debate nor discussion by any Member of this body, is now 396 pages long. It has 137 amendments. Billions of dollars are in the managers' package.

I want to repeat, it is longer than the original House bill. There are authorizations from nutrient reduction pilot programs to a technical correction to the wildlife incentive program changes from $350,000 to $50 million a year in fiscal year 2007. None of these has been debated and discussed, that I know of.

I have selected three that are particularly egregious, on which we will have votes. I would like to say I am familiar with the details of these three amendments on which I am seeking votes, but I am not, because they are technical amendments in a package. In fact, I am interested to see the Senator from Wisconsin in the Chamber because he has sort of been a triggering mechanism to what I am doing right now.

When we had an appropriations bill and I said, ''Who has seen the managers' package?'' no one said a word, and because it was late at night, I let it go. There were 15 amendments in a managers' package which was millions of dollars earmarked for specific States. I said I would not let that happen again.

Now we have a bill, as I say, a managers' package, which is 396 pages long with 137 amendments. We have been working on this bill for months, as the majority leader pointed out to me. We saw 100 of the amendments last night. We did not see the additional 30 technical amendments until 10 minutes before we were supposed to vote. We cannot operate this way. We cannot operate this way with the taxpayers' money.

If anyone has ever seen a package of technical amendments that exceeds this, I would like to hear from them. I do know what a managers' package is supposed to be, and that is some technical amendments that make technical corrections, not amendments such as No. 127, which adds a section authorizing a technical assistance program for geographically disadvantaged farmers. Do you have that? This is a technical assistance program for geographically disadvantaged farmers, $10 million a year between 2002 and 2006. This is in a managers' package. There are Delta regional economic development grants, additional nutrition technology in the delta region, of $7 million a year. And a pilot program for the Chesapeake Bay until 2006, $70 million.

I am sure these may be good programs. They may be very beneficial. Particularly in the case of the Chesapeake Bay, they may be very important. What is it doing in a managers' package? What is it doing with 130 other amendments in a managers' package?

I will ask for votes on these three amendments. They will, I am sure, be resoundingly carried. I tell my colleagues, the next time we do this, we will have extended debate and discussion and second-degree amendments. It has to stop. My constituents deserve the right to know what is in these amendments. When they are talking about $10, $20, $70 million in an amendment, they should not be in a so-called managers' package.

I don't want to impede the progress of the Senate too long, but I cannot allow this practice to continue. The Senator from Kansas is here. He was the manager of major legislation. I ask if the Senator from Kansas has ever seen a bill with this kind of a managers' package in it? I ask unanimous consent for the Senator from Kansas to respond.

Mr. ROBERTS. I am happy to respond to the distinguished Senator from Arizona. The answer is: No.

Mr. MCCAIN. Madam President, I will be glad to address the first amendment. We will have short debate and discussion. As I said, I would like to debate it at length, but I don't know anything about it. That is the reason I am forcing a vote. Maybe we will know something about these various amendments.

I say again to my colleagues, this is not the right way to do the people's business. It is not the right way to do the people's business, a 396-page package of managers' amendments that are supposed to be technical in nature. I am glad to vote on whichever amendment the distinguished managers choose to bring forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I think the Senator from Arizona has an excellent point. I know people are working hard to try to get the bill completed. There are things in the bill that I think are very good and there are things in the bill I do not agree with at all. There are some amendments that a number of people are concerned about that are important, that are legitimate.

I don't think in the effort of expediency we should be throwing everything in this package. I would hope to have a much more deliberative process in this bill and future bills on something so important to my State, so important to many of the States.

I realize the managers are pressed to get a bill through in a timely fashion. That is important. But on such an extensive bill I don't think we are serving the people's business well to move through it so rapidly. Maybe we have to go longer in the evenings, voting at night, to get some of these amendments done. This is important legislation. It should not be rushed.

Regarding this bill, there is some of it with which I agree; much of it I do

not. I hope we do not follow this procedure when we move forward with future pieces of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I defer for a moment before I propound a unanimous consent request.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I will respond to the Senator from Arizona on the issue he has raised.

I agree fully with the necessity of openness and providing an opportunity for review, and we have certainly sought to do that to make this amendment available. At the same time, we cannot operate as the Senate unless we have an element of trust in those who have been appointed or elected to lead our committees on both the majority and the minority side. That is why we as a Senate delegate to committees both the authority and the responsibility to develop legislation, to have hearings, to come up with the bills and to bring them on the floor.

I ask any Senator, how could we ever operate as a Senate if every line, every paragraph, every little item in every bill had to be fully debated and discussed and if every Senator is obliged to sit down and go through and debate every item on the floor? It is impossible. That is why we have built up a system involving openness but also trust. That is why when we receive a request for an amendment, if a senator comes from one side and says, he or she wants to put this amendment in the bill, in the managers' amendment, I look at it to make my judgment and then go to Senator LUGAR, the Ranking Member on the other side. I say: Someone on our side is suggesting they want to do this; would you take a look at it, talk to your staff, go to whomever you want to on your side and look it over. I go to Senators on my side and see if there are any objections. If no one raises any objections, and it is good policy we put it in the managers' amendment.

We also are careful that items added through the managers to the bill are not of such major importance that they substantially affect the underlying legislation. That is true of the amendments in here.

The Senator spoke about billions of dollars being in the managers' amendment. That is simply not so. We have kept within the budget allocation. Nothing in the managers' amendment goes beyond our budget allocation. I asked my staff to add up the total in the managers' amendment, all of the items in there. That is, what additional cost is in the managers' amendment that is not in the pending legislation already? It adds up to only about $38 million more over 10 years in mandatory spending than is already in the underlying bill. It is not billions of dollars: $38 million over 10 years. These are items that are not large. There are some technical changes, adjustments and so forth. But it is a very small amount of money when you consider we are talking about a $73.5 billion bill.

I say to my friend from Arizona, we must operate on a system of trust around here. Obviously, with trust there has to be sunshine. The underlying bill and earlier versions of the managers' amendment have been out there for quite some time. Additional amendments were recently added in order to wrap up the bill. These were available for anyone to see. In addition to the checking I described earlier, any Senate staff or any Senator who wants to come see what is in the managers' package can at any time. They just need to ask. There is no secrecy. That is the way we operate.

I hope the Senator from Arizona is not saying from now on, no matter how available and open we make the process, we will not trust anyone. We cannot trust Senator LUGAR; we cannot trust Senator HARKIN; we cannot trust Senator KOHL; we cannot trust Senator ROBERTS. Everything has to be brought onto the Senate floor for every Senator to debate and vote on the most minute detail. We would never get anything done in this Chamber.

This managers' amendment has been carefully drafted. It has been vetted. It has been fully aired and exposed to the sunshine. It has been out there for people to see as it has been drafted. I did not go to the Senator from Arizona and——

Mr. MCCAIN. Will the Senator yield for a question?

Mr. HARKIN. I am delighted to yield for a question.

Mr. MCCAIN. The fact is, we didn't see 30 of these amendments until 10 minutes before the vote. So how can the Senator say they are out there when we did not see them? We have asked to see them. We have told him we want to see them. It is well known we want to see them. How in the world can the Senator from Iowa say they have been out there when we didn't see them until this morning, and we didn't see the other hundred until last night? The Senator from Iowa is simply not stating the facts as they are.

Mr. HARKIN. I say to my friend from Arizona that my staff tells me that as they have developed the managers' amendment over the last few months, staff has made available the various versions. That they have been e-mailed out constantly to the staff of Agriculture Committee members, so that any one who wanted to, at any point in time, could have seen what was being requested and considered as an amendment. As for the later amendments, we have done the best we can to make them available as soon as possible. Again, both Senator LUGAR and I have signed off on them and worked with members on our respective sides. Finally, the amendment and a summary of it is available for review. We are operating under a consensus approach to this managers' amendment. If there is an objection to putting something in the managers' amendment it does not go in. That is exactly the process that applied to the Kerry-Snowe fisheries amendment. It was our understanding that the Senator from Arizona did not want that amendment in the managers' amendment so we have dealt with it separately on the floor this morning.

Mr. MCCAIN. If the Senator will yield further, we did not see 30 of the amendments until this morning. They were not available to anyone. It is a fact. Just as no one had seen the 15 amendments that were earmarked in the appropriations bill I complained about. No one had seen them. It is a fact.

Mr. HARKIN. I do not agree with the characterization by the Senator from Arizona. There were not 30 amendments to the managers' amendment dropped on the Senate just this morning—that is a fact. Some additional work on the managers' amendment occurred last evening. That is the nature of putting together such a substantial bill as this legislation is. But any modifications were signed off on and accepted by the minority staff. They have been available for review. And I am told that most of them, were e-mailed out at around 6 o'clock last night.

Mr. MCCAIN. One hundred were mailed out last night at 6 o'clock, and then 30 more came in this morning. That is a little bit different version of the facts.

Mr. HARKIN. I say to the Senator, I have checked again with my staff. There were no where near 30 amendments of a substantial nature that came in this morning.

Mr. MCCAIN. I will be glad to get a list of those we were given this morning. There are 30 that we were given shortly before the vote, the final vote on the bill that we were apprised of that we had asked for.

Mr. HARKIN. I am not certain what that is all about. I am told there may have been some after 6 p.m. But, again, I say to the Senator from Arizona, these were cleared on both sides. We never kept any from Senator LUGAR. He never kept any from us—not on either side. We have had our staffs look at them. We have checked with other members. That is what I am talking about—openness and availability but also trust and trusting whether or not committee chairmen and their staffs are sensitive enough, and ranking members are sensitive enough, to say: We don't need to burden the entire Senate with this. We can make a judgment, check as appropriate and make the amendment available.

I also say to my friend from Arizona, even though these are in the managers' package—first of all, it is not billions, it is $38 million, I say to my friend.

Mr. MCCAIN. I will be glad to discuss that with the Senator from Iowa. No. 18 is changed from $375,000 to $355 million, and change $50,000 to $50 million. That is just amendment No. 18.

Mr. HARKIN. This was a clear technical amendment. If you look at the underlying bill you will see that previous fiscal year funding was all in the millions. The fact that the latter years were in thousands is obviously a typographical mistake. This did not add any money to the managers' package because it already was scored by CBO as being in the millions.

I say further to my friend——

Mr. McCAIN. I ask unanimous consent to engage in a dialog with the Senator, if that is agreeable? I just want to make sure we observe the rules of the Senate. I ask unanimous consent to engage in a dialog with the Senator from Iowa.

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

Mr. HARKIN. I am not sure what you would like to debate here.

Mr. McCAIN. It says technical correction in the Wildlife Habitat Incentive Program, technical correction, mandatory funding language, change it from $375,000 to $355 million, in fiscal year 2006; and change $50,000 to $50 million in fiscal year 2007.

Obviously, this is a technical change. Obviously, it is a change of many millions of dollars.

Mr. HARKIN. May I respond? I asked my staff about that. At a cursory reading, as the Senator has done, he says: My gosh, we are going from $375,000 to $355 million in a managers' amendment.

Here is what that is about. In the underlying substitute, there was either a typographical error or a mistake made. It was listed in the legislative language as $375,000, but it was known by everyone to be $375 million, as it was scored by CBO as the correct amount. As I pointed our earlier, if you look at all the funding for WHIP in context it makes sense. There was just a mistake made. So we are correcting the mistake in the underlying bill. A shift was also made of $20 million from WHIP in the managers' amendment, but that did not add to the score in the managers' amendment.

I say to my friend from Arizona, it has already been scored.

Mr. McCAIN. You are still correcting in the underlying bill some $400 million.

Mr. HARKIN. No, there is $375 million already in the underlying bill that has been scored by CBO.

Mr. McCAIN. Plus $50 million. I don't care if it has been scored by CBO or not, it is not in the underlying bill.

Mr. HARKIN. It is in the underlying bill as fully understood. The managers' amendment is only a technical correction to conform to the clear understanding.

Mr. McCAIN. Then you don't need the technical correction. I ask unanimous consent to eliminate technical amendment No. 18.

Mr. HARKIN. I object. Because it is clearly a technical correction that you have taken out of context. What you contend is that real money has been added in the managers' amendment and that is not true. What CBO scores does matter because CBO recognized the typo and we fixed it in the managers' amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. In the underlying bill, the amount of money for the Wildlife Habitat Incentive Program funding language was scored by CBO at $375 million. It was a printing error that was made in the text of the bill, it is mistakenly listed as $375,000 in the underlying bill. Look at all the previous funding levels—they are all in the millions. The technical correction here is to make the underlying bill comport with what CBO has already scored. That is what technical corrections are for.

So I say to my friend from Arizona, if this is illustrative of the problems he has with managers' amendments, I say again, that is why you have to have some trust in the ranking member and in the chairman and our respective staffs, that we are operating above board with openness but also that we are only proposing technical corrections and matters that are acceptable to both sides and not objected to by any member.

Mr. McCAIN. Let me repeat. It's a technical amendment that adds some $400 million.

Here is another one, authorized to be appropriated, $7 million for each of the fiscal years 2000 through 2006. That is another ''technical amendment.''

But the larger issue here is—the larger issue is why do we need 396 pages of technical corrections to a bill which is larger than the entire House bill and has 130-some technical corrections? There is something wrong here. There is something fundamentally wrong.

I say to the Senator from Iowa, I have been here almost as long as he has—not as long. I have never seen bills that required trust of 396 pages and 130 technical amendments. I have never seen any other farm bill that did, nor has the Senator from Kansas, who used to shepherd these bills through the House.

I am supposed to trust a managers' amendment of 396 pages? I am glad to trust, but in the words of a former President of the United States, ''trust but verify'' because time after time after time, I have seen amendments put in that are earmarks, specifically for specific areas, specific States, specific congressional districts. I have seen them time after time. It is not only me who is objecting to that. The Citizens Against Government Waste and the Taxpayers Union and every other watchdog organization condemn this practice, and so do I.

I say to the Senator from Iowa, again, I don't know what is done with Agriculture Committee members or Agriculture Committee staff. I know I have had a longstanding request to see any amendments, and particularly any technical amendments. Either the Senator from Iowa or his staff did not show us those amendments until last night. And there were a number of amendments that were added as short a time as a half hour before the final vote.

Your staff can deny it, but it is a fact. So I will not sit still for that kind of procedure. That is why we will have these votes. I am sorry the Senator does not like the fact that I don't trust 130-some amendments I have never seen that cover 396 pages. I think my constituents deserve better than me ''trusting''—particularly given all the earmarking and pork-barreling I have seen going on, on the increase over the past several years.

I cannot debate these amendments very well because, as I said, I have not seen them because they were not shown to me or other Members of the Senate. That is pretty much the situation. I am sure many of them are virtuous, but the fact is there is all kinds of money and programs in here.

There are interesting things in here. There is one, No. 110: Adds ''gender'' to the list of socially disadvantaged groups covered by section 2501, the outreach program for socially disadvantaged farmers.

Could the Senator, just out of curiosity, tell me what a socially disadvantaged farmer is?

Madam President, will the Senator from Iowa yield for a question? What is a ''socially disadvantaged farmer''?

Mr. HARKIN. I know the Senator is being a little provocative to make his point. That is OK. There is an existing program to help farmers, including minority farmers, who because of circumstances have a harder time getting credit and making a go of it in farming. While the socially disadvantaged program covers minority farmers, there was not a mention of gender, at least for all of the USDA programs involved. It came to the attention of a member—not me, but someone who wanted us to do this—that women were not adequately covered in existing law. This was just a correction to put in that program the definition that gender is a basis on which someone may qualify for assistance under the socially disadvantaged program. That way, along with other disadvantaged groups the law would include gender so women in agriculture would receive fair treatment and opportunity. It seems to me to be a very harmless type of provision to put in there. Again, I don't understand why that should be such a big item. We cleared it on both sides.

I hope the Senator is not saying that every time—maybe he is saying this but I do not know—an amendment comes to the managers' package that has been cleared on both sides and is mailed out that we have to send a message to his office specifically asking him to look at it. The process is open. If the Senator wants to have his staff come over at any time, the door is open. They can look at any amendment they want.

Mr. REID. Madam President, will the Senator yield?

Mr. HARKIN. Without losing my right to the floor.

Mr. REID. If I may correct something, I listened to this. I had a heart-to-heart discussion with the Senator from Arizona earlier today. I think that maybe I am partially to blame for what has gone on. I say that because I have been here with the two managers of the bill for several weeks. The Senator from Arizona is right. I do not know which bill it was, but it was one of the last bills we had before the new year. The Senator asked me if I would in the future when there was a managers' package notify him or his staff. He did ask me that. There is no question about that. Last night I should have done that, and I didn't do that. It is not Senator HARKIN's fault or Senator LUGAR's fault. But the Senator from Arizona did come to me the last time we had this problem and I told him I would do that. I didn't do it. It is certainly nothing that is deceptive. I simply didn't do it. I forgot. One of the reasons is that I have such great confidence in the two managers of the bill. I do not know on the minority side if there is a Senator who I have such great respect for than Senator LUGAR. This man is top of the line. He has worked very closely with us on this bill, as my friend, Senator HARKIN, has spoken about many times.

I don't think we need to discuss it here today. I think the Senator from Arizona has a right to be concerned, but his concern should be directed towards me, because, in fact, the last time he indicated he, in the future, was going to raise objections to the managers' amendment. I should have brought this to his attention.

When we talked earlier today, he indicated he wanted to offer amendments to each one of these. I indicated that the unanimous consent agreement wouldn't allow that.

Certainly the Senator from Arizona can do whatever he wishes, but I think we can get to the heart of this if he makes a motion to strike each of these three things about which he is concerned. I think his points will be very well taken.

When this happens again, I will do my best to make sure that he or his staff are aware of the managers' package. I don't want the Senator from Iowa or the Senator from Indiana to be blamed for any of this. I should have on my own brought this to the attention of the Senator from Arizona.

Mr. HARKIN. Madam President, if I might reclaim my time, I thank the Senator from Nevada for that. I harbor no ill will at all. I have great respect for the Senator from Arizona. He knows that. I am just trying to be as open as possible. We all know that legislative matters and requests for changes do come up throughout the process of putting a bill together. Some do come in late, but that is the right of senators to request modifications. However, nobody is trying to ram anything through that people don't know about.

I will say to my friend from Arizona that this managers's amendment has been scrubbed and checked carefully, but there is another stopgap within this process just in case something gets through inadvertently that may not have been obvious or to which someone had a serious objection but had not raised it for some reason. We have to go to conference. Everything in this bill and managers' amendment is out there in that conference. Everything is out there for everybody to see. I say to my friend that there is another level which we are going through. This amendment and this bill are not the final word.

That is the only point I am trying to make.

I yield the floor.

Mr. MCCAIN. I thank the Senator from Nevada. I appreciate his comments on this issue. I say to the Senator from Iowa that I would like to trust everything that goes through this body. I can tell you too many stories of things that went through without my knowledge that cost the taxpayers a whole lot of money. I will tell you about one.

Put into an appropriations bill was a provision that two ships would be built in Pascagoula, MS, in return for which there would be exclusive rights for those ships to sail to the Hawaiian Islands. I never saw that amendment until after it was done. Associated with that was over $1 billion in loan guarantees from the Maritime Administration. I never saw the amendment. The outfit just went bankrupt. The taxpayers have already spent some $300 million-plus which they lost from those loan guarantees, and they stand to lose over $1 billion. I am sure it was a well-meant and a well-intentioned amendment to help both Mississippi and the Hawaiian Islands. I knew it would fail because I know enough about shipbuilding in the United States of America.

Those are the kinds of things that happen time after time—maybe not of that magnitude—because of amendments, which are well-intentioned and probably good in many respects but don't undergo the scrutiny and the hearings and the authorizations necessary to prevent that from happening put into these pieces of legislation.

That proposal I told you about would have never cleared either the Commerce Committee or the Armed Services Committee. It never would have gotten through. It was stuck in an appropriations bill, which we do time after time. The night I was here, I asked: Does anybody know what is in the managers' package? No. It was late at night. So I said: OK. I don't object. There were 15 earmarks of millions of dollars for specific States. That is my taxpayers' money, too.

I say to the Senator that this system is broken. We are now up to 8,000 earmarks on appropriations bills. That is up from less than 2,000 3 years ago. It is wrong. It is just wrong. It is wrong from the standpoint of fiscal discipline and budgetary reasons, but it is also wrong in the respect that these matters need to go through the proper authorizing and appropriations process. At least this is an authorization bill.

I thank the Senator from Nevada for his comments. I am very grateful for the courtesy that he has shown me, not only now but for many years.

I withdraw my requirement to object and to seek to strike these three amendments, and I will agree to go to final passage.

But I say to the Senator from Iowa one more time that this is unprecedented with 396 pages of technical amendments in the managers' package. It is wrong and 1,130-plus technical amendments is wrong. It is not the right way for us to do business. I hope we can do better in the future.

I yield the floor. I am prepared to move to final passage.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Iowa.

AMENDMENT NO. 2859

Mr. HARKIN. Mr. President, I call up the amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. LUGAR, proposes an amendment numbered 2859.

Mr. HARKIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2859.

The amendment (No. 2859) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the substitute amendment is agreed to.

The amendment (No. 2471), as amended, was agreed to.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. COCHRAN. Mr. President, I am pleased the Senate is about to complete action on this farm bill. While the bill has some positive and helpful provisions, particularly with respect to

conservation, rural development, research, and nutrition, I plan to vote against the bill.

One of the primary objectives of farm legislation should be to improve the predictability and effectiveness of the financial safety net available to farmers. However, the payment limitation amendment that was adopted by the Senate will reduce the level of price support and shred the safety-net that our farmers need. According to the Congressional Research Service, cotton farmers would be able to receive benefits on approximately 880 acres, and rice farmers would be able to receive benefits on about 490 acres. Any additional acreage planted to these commodities would not be eligible for any government assistance.

Since 1985, the marketing loan program has been the centerpiece of our Nation's farm policy. The marketing loan program provides reliable and predictable income support for farmers while allowing U.S. commodities to be competitive in the global market. This legislation will make the marketing loan program completely useless.

Considering the bleak forecast for the farm economy, it does not stand to reason that Congress should pass legislation that imposes new rules and regulations which will restrict government assistance so drastically.

I hope we can resolve the differences we have over this bill in conference with the House and bring back a truly beneficial farm bill. I pledge my best efforts to achieve that result.

PRESERVATION OF LAND FOR JOHN OGONOWSKI

Mr. KENNEDY. Mr. President, I commend Senator HARKIN for his effective work on this legislation. I particularly commend Senator HARKIN for his leadership in including programs in this farm bill that will help farmers across the Nation, including those in the Northeast.

I would like to take a few moments to speak about John Ogonowski, the courageous pilot of American Airlines Flight 11, which was hijacked by terrorists on September 11th and which crashed into the first tower of the World Trade Center that day. At the time of his tragic death, John Ogonowski had been working tirelessly to preserve 33 acres of land that had once been part of the Ogonowski farm in Dracut, MA. The Farmland Protection Program serves as a vehicle to help preserve farmland, and I hope that the funds from that program can be used to preserve the land that John cared so much about. I hope that we can make John's dream come true.

Mr. HARKIN. Mr. President, I will be honored to work with the Senator to try to preserve the land in memory of John Ogonowski who was a proud farmer and a brave man. The land in Dracut, MA would stand as a fitting memorial to him. I will work, as the bill progresses, to encourage the use of Farmland Protection Program funds for this important cause.

Mr. KENNEDY. The land in Dracut is along a road that is traveled by many families, commuters, and tourists. All those who pass by the land will know of John Ogonowski's life and his family's love of farming.

John farmed these fields for many years as a young man and was often seen riding on his John Deere tractor with a wave and a smile for those he passed. His family continues to maintain substantial farmland in the community, but John was deeply concerned about this portion that had been sold recently. To John, the original Ogonowski farm was one of the wonders of the world, and John had worked skillfully and tirelessly to create the Dracut Land Trust to preserve it. Now, in a well-deserved tribute to John Ogonowski, we will work to help the Dracut Land Trust preserve these 33 beautiful acres.

CHESAPEAKE BAY NUTRIENT REDUCTION PILOT PROGRAM

Mr. SARBANES. Mr. President, I would like to clarify that it is the intent of this provision to encourage the development of innovative solutions to the nutrient pollution problem in the Chesapeake Bay. The principal focus of the program, as envisioned by Bay-area scientists and organizations, is to create new incentives for farmers to reduce the application of nitrogen by at least 15 percent below what is normally considered best practice and to provide financial protection in the event of reduced yields. In order to implement the provision, it is my expectation that the Risk Management Agency will make available the Nutrient BMP Insurance Endorsement that was approved by the Federal Crop Insurance Corporation on December 12, 2001 in the states of the Chesapeake Bay region, with such modifications as necessary to effectuate the purposes of this section.

Mr. HARKIN. The Senator is correct. The purpose of this provision is to support the development of new and innovative solutions to the Chesapeake Bay's nutrient over-enrichment problem. It provides $70 million for States in the Chesapeake Bay watershed to test new practices that could provide major reductions in nutrient pollution. It will clearly require an underlying risk management instrument and we would expect the Risk Management Agency to make its programs available to implement the yield insurance aspect of this provision. I will be happy to work with the Senator from Maryland in Conference to ensure that the mechanisms to carry out this provision are created or made available.

Mr. SARBANES. I thank the Chairman of the Committee. This provision is a win-win situation for the Bay and farmers. It will reduce nutrient inputs to the Bay and it will enable farmers to lower their operating costs by avoiding the cost of unneeded fertilizer, without risking loss of a portion of their crops. Experience gained in this pilot program will allow better understanding of risks and benefits of this practice.

TECHNICAL ASSISTANCE PROVIDERS

Mr. ROBERTS. Mr. President, it is my understanding that the section on certification of third party technical providers allows the Secretary to certify providers. The legislative language, regarding the certifying programs run by the United States Department of Agriculture is designed so that the USDA does not run the programs in a manner that directly or indirectly undermines the ability of private, long-standing, and highly regarded certification programs like those operated by the Certified Crop Advisors and National Alliance of Independent Crop Consultants.

The intention of the conservation title, and especially this section, as I understand it, ensures that the Nation's farmers and ranchers will be able to continue to receive high quality conservation technical assistance, and that there will be enough technical assistance to allow the complete and proper delivery of the conservation programs funded in the farm bill.

In addition, it is my understanding that the Secretary of Agriculture will consult with and be advised by representatives from federal, state, and local agencies as well as representatives from the private and non-profit sectors on an Advisory Council. It is expected that in selecting representatives, the Secretary shall appoint representatives from the following groups: Natural Resources Conservation Service, Forest Service and Farm Service Agency, the National Association of Conservation Districts, the Certified Crop Advisors, the National Association of State Foresters, the National Alliance of Independent Crop Consultants and the American Society of Agricultural Engineers. Together with other appointed members of the Advisory Council, these representatives will advise the Secretary of the management of certification programs for the provision of technical assistance by third party providers.

Mr. LUGAR. I agree with Senator ROBERTS that those are the intentions of the language regarding non-federal technical assistance providers.

Mr. HARKIN. I also agree with Senator ROBERTS and Senator LUGAR and thank them for working with me on the important work of expanding and enhancing conservation technical assistance. I am a strong supporter of the work done by private third parties including the Certified Crop Advisors and the National Alliance of Independent Crop Consultants. Our bill will allow them to prosper while enhancing technical assistance nation-wide.

Mr. DAYTON. Mr. President, I commend the chairman and ranking member of the Senate Agriculture Committee for accepting my amendment to provide mandatory funding for the Biodiesel Fuel Education Program.

Biodiesel is a home-grown renewable fuel. Even as world oil prices are tightening, America's farmers are producing record crops of soybeans. Unfortunately, U.S. soybean prices are now at record lows. Building demand for biodiesel will help increase these commodity prices while enhancing our Nation's energy security. In Minnesota,

soybeans are the number one cash crop, grown on about 7 million acres. As we increase demand for soybeans, thus boosting market prices, we are also investing in the economic well-being of farmers and rural communities across our country.

Minnesota has been a long-time leader in the production of renewable fuels such as ethanol, wind-generated electricity, biomass, and solar energy. As Minnesota's Commissioner of Energy and Economic Development during the 1980's, I know firsthand the important role that federal and state programs play in developing these industries during their infancies. So I strongly support legislation that promotes the use of renewable energy and programs that educate the public in order to create demand.

Last June, I, along with Senator TIM HUTCHINSON of Arkansas, introduced legislation to provide tax incentives for increased use of biodiesel, a renewable fuel made from soybean and other vegetable oils. The biodiesel bill provides a Federal excise tax credit similar to the excise tax credit for ethanol-blended gasoline. The U.S. Department of Agriculture estimates that the resulting increase in biodiesel sales will increase soybean prices by at least 25 percent per bushel. As market prices go higher, the cost of government price supports become lower. The savings realized by the Commodity Credit Corporation, and the American taxpayer, would then be used to cover the cost of the tax credit. My bill directs the savings to the Commodity Credit Corporation to reimburse the Federal Highway Trust Fund for its lost revenues.

Over the past year I have been working with the Senate Finance Committee to include the biodiesel tax credit in the energy tax package that is scheduled to be marked up by the committee this afternoon. I wish to commend the Senator from Arkansas, Mrs. LINCOLN, for her help in this effort. If we are successful in passing this tax credit, an effective education program to educate the public on the benefits of biodiesel fuel will be essential as biodiesel makes the transition from research and development to commercialization.

During the markup of the energy title of the farm bill, the Senate Agriculture Committee passed my amendment to authorize $25 million over the next five years for the Biodiesel Fuel Education Program. My amendment, which passed the committee unanimously, increased the amount available from $1 million to $5 million annually through 2006 for grants to educate Americans about biodiesel. The passage of this amendment was a critical step toward encouraging the production and use of biodiesel.

I am pleased to report that the chairman and ranking member of the Senate Agriculture Committee have now accepted my floor amendment that will provide mandatory funding for the Biodiesel Fuel Education Program. My amendment will avoid the need to go through the annual appropriations process by providing $5 million in mandatory funding annually in fiscal years 2003 through 2006.

The biodiesel tax credit, together with the Biodiesel Fuel Education Program, provides a comprehensive approach to facilitate the entry of biodiesel fuels into the marketplace. Working in tandem, these legislative initiatives will educate the public, increase demand for biodiesel, bring higher prices for farmers, lower government outlays, improve the environment, and lower our dependence on foreign oil.

Mr. BINGAMAN. Mr. President, I rise today to comment Senator HARKIN for including in the farm bill a provision that is crucial to the Great Plains region of our Nation. The provision addresses the alarming decline in groundwater in the Southern Ogallala Aquifer, which extends under four States: Texas, New Mexico, Oklahoma, and Kansas.

A reliable source of groundwater is essential to the well-being and livelihoods of people in the Great Plains region. Local towns and rural areas are dependent on the use of ground water for drinking water, ranching, farming, and other commercial uses. Yet many areas overlying the Ogallala Aquifer have experienced a dramatic depletion of this groundwater resource. Some areas have seen a decline of over 100 feet in aquifer levels during the last half of the twentieth century.

This provision would establish a voluntary 4-year groundwater conservation incentives program for the Southern High Plains Aquifer region. Incentive payments would be made for voluntary land management practices, which may include changes from irrigated to dryland agriculture, changes in cropping patterns to utilize water conserving crops, and other conservation measures that results in significant savings in groundwater use. Cost-share payments will be made for structural practices that will conserve groundwater resources of the High Plains Aquifer, which may include improvement of irrigation systems and purchase of new equipment.

The provision also requires the Secretary of Agriculture to undertake groundwater education efforts in the southern High Plains Aquifer area, cooperating in these efforts by working with the southern High Plains Aquifer states, the land grant colleges and universities in the area and their state cooperative extension services, other educational institutions, and private organizations, as appropriate.

This provision brings focus to an issue that concerns the long-term economic viability of communities in much of America's heartland. This is farm country, and the cornerstone of its economy is its groundwater supply, the Ogallala Aquifer, which allows for irrigated agriculture. The Department of Agriculture estimates that there are over 6 million acres of irrigated agriculture overlying just the southern portion of the Ogallala. These farms use between 6 and 9 million acre feet of water per year. The problem we are confronting is that the aquifer is not sustainable, and it is being depleted rapidly. This threatens the way of life of all who live on the High Plains. This provision will take significant steps to address this serious problem.

Mr. THURMOND. Mr. President, I have offered an amendment, cosponsored by my colleagues from North and South Carolina and Virginia, that will provide temporary relief to flue-cured tobacco growers in our States. I express my appreciation to the chairman and ranking member for accepting our amendment into the manager's package.

Flue-cured tobacco is produced under a system of acreage allotments and marketing quotas. This system involves both the amount of land on which the tobacco may be grown and the amount of tobacco harvested or the yield from that land. Hence, the allotment refers to acreage, while the quota refers to the right to market or sell the poundage produced on the allotted acreage. Usually to simplify discussion of this system, reference is only made to the term ''quota''.

Originally quota was owned by the producers as a tangible asset that could be passed down through inheritance from the owner to his spouse, his children, his grandchildren, or other heirs. Over time as people left the farm, we now find quota owners who no longer have any connection with Flue-cured tobacco production other than that they derive income from the leasing of their quota to Flue-cured tobacco producers.

In the late 1970s and early 1980s, there was a view that the competition for flue-cured tobacco leases was driving up the cost of production. As a result, in 1983 Congress passed Public Law 98–180. Section 205 of that act stated that flue-cured tobacco growers would not be permitted to lease their allotments and transfer their quotas for 1987 and subsequent crops. The rationale was that if tobacco growers could not lease tobacco quota and transfer it to their farms, then it was presumed that tobacco growers would buy the flue-cured tobacco quota from the quota owners. Conversely, if quota owners could not lease and transfer their quotas, they would be forced to sell them. For whatever reasons, this provision of law has never been enforced by the Secretary of Agriculture. Therefore, quota owners did not sell their quotas to producers. However, since growers could no longer lease and transfer quota, they began to rent the land to which the quota belongs. Through a United States Department of Agriculture, USDA, administrative procedure known as reconstitution, growers combined the quota owners' farms into their own.

Now, the Secretary has determined that USDA will, commencing with the

2002 Flue-cured tobacco crop, began enforcing this 1983 law by a strict interpretation of the rules that define a farm and govern farm reconstitutions. This action by the Secretary is causing considerable confusion and concern among flue-cured tobacco producers and quota owners. Incomes and balance sheets are at risk.

This current effort to enforce the 1983 law to force the sales of flue-cured tobacco quota is most ill times. Current conditions make quota too expensive for the tobacco producers to buy. There are two main reasons for this. First, quota owners are receiving ''tobacco quota payments'' as a result of the National Tobacco Grower Settlement Trust Agreement, also known as the Phase II settlement. Second, The President's Commission on Improving Economic Opportunity in Communities Dependent upon Tobacco Production While Protecting Public Health has recommended a tobacco quota buyout. Given the current and the potential income streams to tobacco quota owners over and above the quota's value to tobacco growers, few if any tobacco producers could now afford to buy flue-cured tobacco quota. Moreover, the ultimate objective of the recommendations of The President's Commission is to completely do away with the system of tobacco quotas. With the uncertainty surrounding the Federal tobacco program, it is very doubtful that any financial institution would even be willing to lend money to producers to purchasing quota.

My amendment suspends the enforcement of this provision of law for one year, for the 2002 flue-cured tobacco crop. Additionally, it addresses a problem whereby certain local USDA offices are requiring flue-cured tobacco farm combinations to follow the rules governing reconstitutions of production flexibility contract farms rather than the specific rules that control reconstitutions of flue-cured tobacco farms. It also directs the Secretary of Agriculture to study the issue and report back to the Congress within 90 days of enactment of this bill.

Finally, I would note that while flue-cured tobacco is also grown in Georgia, Florida, and Alabama, my amendment, as a result of a particular set of circumstances, will not have any effect on flue-cured tobacco production in those three States nor on any other type of tobacco production. We shall be doing our Carolina and Virginia flue-cured tobacco farmers and quota owners a great service by adopting this amendment in order to give the Secretary time to review the belated, unintended impact of this 1983 legislation and to allow time for a thoughtful, deliberate implementation or consideration of repeal of the provision.

Mr. MCCAIN. Mr. President, let me first express my appreciation and respect for the work of the Chairman, Senator HARKIN, and the ranking member, Senator LUGAR, for their dedication to address the challenging issues facing American farmers. In addition to funding commodity programs, this farm bill addresses the country's trade policy commitments, goals to improve farming practices through conservation measures, establishes energy and forestry initiatives, and reauthorizes food and nutrition programs.

Every few years we debate a new farm policy, attempting to reach that elusive goal of economic sustainability in the agriculture sector. Yet little seems to change from farm bill to farm bill except the title of the bill. We're always taking one step forward and two steps back. Payments are more generous, new subsidies are created, and the Federal Government's role is expanding, not shrinking, hurting small farmers, compromising agricultural exports, and penalizing American consumers and taxpayers.

In 1996, we passed a farm bill that was intended to implement a more market-oriented farm policy and wean farmers off government assistance. Instead, five years later, farm subsidies have ballooned by 400 percent. In the year 2000 alone, farm subsidies reached a record level of $22 billion.

Just a few days ago, the Senate approved an amendment to implement a stricter limit on payments to farmers. While certainly laudable, I was disappointed that this amendment does not save the taxpayers any money—the savings are simply redistributed to other federal programs.

Even with this change, it's quite obvious that farm spending is still undeniably generous, with an additional $73.4 billion dedicated to commodity and other farm programs over the next ten years, which is new spending over and above the CBO baseline. Although the Senate bill includes a five-year authorization, and the House bill proposes ten years, both bills propose to spend, in one way or another, the full $73.5 billion in additional spending included in last year's budget resolution. That means, irregardless of a five-year or ten-year bill, the budget commitment for taxpayers could still tab up to $170 billion in total to pay for current programs and cover the costs for new ones proposed in this farm bill.

That is an enormous federal commitment. Just this past December, the Administration proposed to spend $26 billion for its new education bill, a relatively meager amount to be spent on school programs in comparison to farm programs. What is more incredible is that we are asking American taxpayers to foot this $170 billion bill when other compelling priorities remain backlogged or unfunded.

For example:

Indian schools on Native American reservations, suffering from the worst dilapidated school conditions in the country, need $1.2 billion to fix the deferred maintenance backlog at 185 schools.

The Individuals with Disabilities Education Act, which has never been fully funded, would require $10 billion.

And, about $5–6 million a year for Special Subsistence Allowance payments to military households would help get service members off food stamps.

Unfortunately, these will remain low priorities and underfunded as long as farm spending increasingly consumes the federal treasury.

Yesterday, the Senate also voted to suspend budget rules to include an additional $2.4 billion in crop and livestock disaster assistance for 2001 crops in this farm bill. This $2.4 billion is, of course, not subject to budget limitations. This is spending in addition to the $5.5 billion already allocated by the Congress for 2001 crops and $33 billion in ad-hoc or emergency farm assistance provided over the last four years. So, that makes a grand total of $35.4 billion in additional farm spending over and above the $70 billion authorized in the 1996 farm bill.

Where's the reform? Where does this unlimited spending end?

Unfortunately, at the end of the debate, special interests win once again. Let's take a look at the grab-bag for special interests in this farm bill:

This bill restores counter-cyclical target price payments that were eliminated in the 1996 farm bill, potentially spending up to $70 billion for commodity programs for the life of this bill.

A new direct payment program is created for dairy farmers at a cost of $2 billion over a 3–4 year period, with one-quarter of these funds earmarked to the northeast States.

Establishment of a new peanut direct payment program, costing $2.6 billion over 5 years.

Honey, and wool and mohair subsidy programs are reinstated, programs which were either phased out or eliminated in the 1996 farm bill.

Higher loan rates are provided for specific crops such as wheat, corn, cotton, and others.

The Federal sugar subsidy program receives additional props in this bill, not only penalizing consumers with artificially high sugar prices but costing taxpayers $254 million to support the program.

New authorization for payments and loans available to producers of dry peas, lentils, and large and small chickpeas.

Addition of new benefits for soybeans and minor oilseeds farmers.

Mandatory country-of-origin labeling requirements for wild fish—a provision that has not been debated or reviewed, but simply included in the manager's package.

$100 million in emergency assistance for apple producers.

Farm spending has gone unchecked for decades. Only until the GAO and other independent taxpayer groups singled out the disparity of farm payments has some light been shed on this unlimited spending.

The GAO's report, which highlighted the egregious disparity in farm benefits, demonstrated that over 80 percent

of farm payments have been distributed to large and medium sized farms, leaving small farmers in the cold.

Even with changes in this bill for payment limitations, there simply is nothing to prevent farm groups from seeking future disaster relief and emergency spending when their commodity payments are limited as proposed in this Senate bill. It would be nothing short of miraculous if this payment limitation provision survived conference negotiations given the expected resistance from entrenched farm interests. The bottom line is that taxpayers face the threat of a return to basic status quo farm policy, lavishing government payouts to large farming operations and conglomerates.

We had an opportunity to implement a real reform proposal, as presented by my distinguished colleague, Senator LUGAR, and I applaud him for his efforts. Senator LUGAR fought a brave fight to force the Senate to debate a more sensible reform of farm policies, fighting against a tide of pressure from his colleagues, the distinguished chairman, and many agriculture groups.

He offered a proposal to substantially reduce federal farm payments and focus assistance on a needs-based approach. He boldly proposed to phase out cherished sugar, peanuts and dairy subsidies. He also suggested that federal assistance is more appropriately focused to those farmers that genuinely need assistance. Sadly, his proposal will never see the light of day beyond this chamber because too many are willing to adhere to the status quo rather than accept progressive policies.

This bill is a great disappointment.

While not all of my colleagues are equally budget conscious when passing such comprehensive legislation, more than a few should be concerned about how this bill could potentially impact U.S. trade commitments.

Today, agricultural exports account for approximately one-fourth of U.S. farm income. Because of this, removing trader barriers to U.S. agricultural goods is more important now than ever. But as we travel around the world, championing the cause of free trade, we must practice what we preach. We cannot possibly expect foreign governments to reduce barriers to entry for U.S. agricultural products, while the United States Congress continues to build up greater barriers domestically, to reduce competition from foreign products.

I am a supporter of free trade. I want American farmers to be able to sell their goods around the world. This bill continues protectionist policies that raise barriers to foreign goods. These efforts will jeopardize the ability of America's farmers to continue to export goods abroad and profit from expanded exports. Passage of this legislation could very well lead to violations of international trade rules and will no doubt complicate the position of the United States in future trade negotiations.

For example, a current one-year ban on catfish imports in effect right now because of a last-minute rider to the agriculture appropriations bill we passed last year. I opposed this ban, but, unfortunately, special interests have also secured a ten-year ban on catfish imports in the House farm bill.

Also included in the managers' package of amendments is a provision that requires country of origin labeling for ''wild fish.'' Not many of my colleagues realize how difficult this provision will be to implement because so many different fish from different sources are often processed within the same fish processing plant. Fish processors will have to completely change the way they operate their business in order to comply with this protectionist measure. Other such trade distorting programs such as dairy and sugar price support programs remain a constant in farm bills.

Farm policy is among the most volatile and complicated matters we deal with in the Congress. But what seems clear to me is that the farm economy seems unable to operate unless the Congress infuses billions of dollars in the form of direct federal payments, mandates government fixed prices, and imposes distorted quotas.

We continue to spend and spend on farm subsidies, despite the projections from CBO, which indicate that if current tax and spending policies remain in place, the total unified budget will show a deficit of $21 billion in 2002 and $14 billion in 2003, and net surpluses every year thereafter through 2012.

According to CBO, the on-budget accounts are projected to post deficits of $181 billion in 2002, $193 billion in 2003, and declining amounts through 2009. On-budget surpluses do not appear again until 2010. And, let's face it, medium- and long-term budget projections are worth little more than the paper they're printed on.

At this time of economic uncertainty, this farm bill is an appalling breach of our federal spending responsibility and our national integrity, while continuing the heavy burden long placed on taxpayers.

I regret that I cannot support this bill. I realize that many agricultural producers in Arizona have relied on some of these farm subsidies and other agriculture programs, particularly from rural development initiatives. Unfortunately, this farm bill, like most other farm bills in years past, tilts benefits toward the bigger farm producing States while Arizona, like many other States, will lose out over the long term.

Sadly this bill fails by all accounts to provide a sound and defensible national farm policy.

Mr. CORZINE. Mr. President, I oppose this legislation, and I wanted to take a few moments of my colleagues' time to explain why.

Let me begin by commending the distinguished chairman of the Agriculture Committee, Senator HARKIN, for his outstanding leadership on agricultural issues and his strong commitment to farmers. There is no more passionate advocate on these issues in the Senate.

Let me also say that I grew up on a farm—a 120 acre family farm. I understand what it means to wake up early and put in the long, hard hours that go along with family farming. I have tremendous respect for the men and women who put food on our nation's table. And I represent a state, the Garden State, with an important agricultural history, although one less dominant today.

But, in my view, the legislation before us is the wrong way to support America's farmers. It perpetuates an outdated system of subsidies that distorts the market, unfairly benefits a limited number of producers, and, most importantly, imposes excessive costs on all consumers. It distributes these subsidies in a manner that leaves farmers in states like New Jersey with little assistance. And, while this bill does more than other farm bills in recent history, it will use Social Security surpluses for unrelated spending, just when we should be saving to prepare for the baby boomers' retirement.

If we were starting from scratch, no rational person would design the system of agricultural policies that we now have in place, a system begun during the Great Depression. This system provides that most of the federal assistance goes to four crops: wheat, corn, cotton and rice.

If we were starting from scratch, the first question would be: why? What is it about wheat, for example, that justifies giving its producers large subsidies?

The answer is that there is little reason. We have done it in the past. But there is no good reason to give wheat, or any of the other program crops, special treatment that is not provided to other producers.

When Government chooses arbitrarily to favor some products with subsidies, it creates distortions in the market. Farmers might ordinarily be inclined to grow vegetables, soybeans, apples, or other fruits. That may be what consumers want and might make sense economically. But if those fruits do not enjoy government subsidies, many farmers will choose instead to plant more wheat. That reduces the supply of fruit, which raises its price. At the same time, it increases the supply of wheat, which lowers its price.

Under the farm program, moreover, a reduction in the price of wheat then triggers even more Government subsidies. In other words, Government subsidies lead to more government subsidies, as the market gets increasingly distorted. The end result is often higher prices for consumers and, eventually, higher taxes for everybody.

Let me focus on this last point. This bill calls for a dramatic increase in overall spending on agriculture: as reported by committee, a total of $73 billion over baseline levels in the next

decade. Note that baseline levels already incorporate the effects of inflation. So a $73 billion increase is a huge amount of money. And the fact is, we cannot afford it.

In large measure because of the tax cuts enacted last year, we already are looking at deficits for years to come. President Bush's budget calls for raiding Social Security surpluses of $1.5 trillion over the next 10 years. And I am afraid that this bill will mean that Social Security surpluses are diverted to pay for farm subsidies. That, in my view, is wrong.

Our Nation faces a huge demographic bubble, as the baby boom generation moves toward retirement. We simply must save more to prepare for that. This is the wrong time to be calling for huge increases in agriculture subsidies.

I also would point out that this bill, like the existing system of farm subsidies, is fundamentally unfair to my State of New Jersey. The overwhelming bulk of the subsidies in this bill will go for commodities that, by and large, are not produced in the Garden State.

In New Jersey, our farmers grow large amounts of specialty crops, such as blueberries, eggplant and asparagus. In fact, New Jersey ranks second in the nation for blueberry production, and fourth in the nation for eggplant and asparagus production. Yet, though New Jersey's farmers meet much of the nation's needs for these crops, none of our blueberry, eggplant or asparagus farmers receive support under the existing commodity programs. That is one reason, Mr. President, that New Jersey got less than one-twentieth of one percent of the total commodity assistance provided by the Federal Government in fiscal year 2001. Less than one-twentieth of one percent!

The people of my State get one of the worst returns on their tax dollar of any State in the nation. This Congress can be generous when it comes to rural areas in other parts of the country. But our State has very different needs. And, when it comes to supporting urban areas, like Newark, Camden or Trenton, we tend to come up short. Yes, HUD helps some. Yes, there are some subsidies for transit. But, overall, the Federal government is not treating my State equitably. We are continuously the 49th of the 50 States in our return on the Federal dollar. That bothers a lot of New Jerseyans. And it bothers me.

Having said that, I recognize that if you simply compare this bill to existing law, there are a few provisions that represent improvements. I do support most of the conservation and nutrition provisions. And I acknowledge the hard work of Senators LEAHY and TORRICELLI in pushing for more fairness for specialty crops.

Yet at the end of the day, the existing system of farm subsidies essentially remains intact in this bill, and the subsidies for favored crops are only increased. That means we will continue to subsidize a limited number of producers. We will continue to distort the market. We will continue to impose higher costs on consumers and taxpayers. We will continue to invade the Social Security Trust Fund. And we will continue to treat my State of New Jersey unfairly.

For these reasons, I cannot in good conscience support this legislation. And I hope that, in time, we can revisit a failed farm policy and achieve real, needed reform.

Mr. NELSON of Nebraska. Mr. President, I rise today to commend my colleagues and the Senate leadership for bringing this legislation, the new federal farm bill, to the floor so early in the year. I think the priority this bill received on the calendar reflects its priority to the Nation, our economy, and especially our rural and agricultural regions.

In my home state of Nebraska, 55,000 families earn their living on the farm. In total, one in four jobs in Nebraska is connected to agriculture. To say the farm bill and Federal farm programs are important to my state is an understatement.

Which is why I was part of a group of sensible, concerned Senators that pushed this body to consider, and pass, a new farm bill last year. We knew that we had to act fast to remedy the problems associated with Freedom to Farm. I know first hand, serving as governor of a rural state during the implementation of that program, that it was a failure and needed to be fixed.

We wanted to get it done last year for two reasons. First, we wanted to give farmers and their lenders as much time as possible to plan for a new federal program. Second, time was running short on the Federal budget clock and in order to maintain an acceptable level of funding for the farm bill, we needed get it done before the budget authority expired for $73.5 billion in new farm bill funds we had secured.

But, that didn't happen. We had an administration that thought we should wait, and a merry band of Senators agreed. So, for reasons still unclear to me, the farm bill was defeated last year, and the only people who suffered were the farmers all across the country who depend on these programs to thrive.

Now, we are here on the precipice of progress. We have addressed the concerns that were raised last year and we may actually pass a new farm bill this week. I must say it's been an interesting process. As the debate on the farm bill was underway last December, simultaneous debates on how best to boost the nation's economy out of a recession were being conducted.

I was part of the economic stimulus discussions, and a part of the farm bill proceedings in the Agriculture Committee. I couldn't help but notice the parallel goals of both bills: to stimulate the economy and to stimulate the agriculture economy.

An argument might be made that the best economic boost for my state, Nebraska, is something to generate activity in the agriculture economic sector. Anything that improves the agricultural economy stirs the overall economy in my state. That is why I am here now. I am here to say that this farm bill represents the best economic hope for rural, agriculture-based, states like Nebraska.

Commodity prices for crops remain at historic lows for the fourth straight year. Livestock producers—the largest sector of agriculture in my State—are facing costly new environmental regulations with frightfully few federal resources to help share the burden.

This farm bill addresses these concerns and will have a positive impact on the rural economy. This farm bill is the right thing to do, even if it's a few weeks late.

We have made great strides with this bill. I am proud to say we have nearly doubled conservation spending—encouraging agriculture to improve resource management and for the first time providing incentives for conservation on land in production.

This farm bill promotes trade, promotes conservation and competition. It breathes new life into our commodity programs.

For example, it reauthorizes the programs for sugar beet growers, which are so critical to the 550 sugar beet families in western Nebraska. It also provides nutrition programs for hungry children and adults, supports our international food donation and trade efforts, and protects millions of acres of environmentally sensitive land, among other important priorities.

The farm bill before us makes a real commitment—both in programs and funding—to rural development. This farm bill removes barriers to the school lunch program for military families by eliminating an accounting glitch that uses their housing allowance to prohibit their participation.

I am pleased that despite the obstacles laid down before us, the Senate is about to do the right thing and pass this needed and important legislation. I urge my colleagues to support the people who feed our nation and the nations around the world, our farmers and ranchers, by supporting the new farm bill.

Mr. WELLSTONE. Mr. President, today I opposed the sense-of-the-Senate amendment offered by the Senator from Arizona. Senator KYL's amendment called for the removal of the sunset date for the estate tax changes made in last year's tax cut package. I opposed it because the proposal was both unfair and unaffordable.

The Senator's proposal was unfair because only a tiny number of Americans pay the estate tax under current law. In fact, in 1999 only 636 Minnesotans paid any estate tax whatsoever. This is simply not a burden that falls on many families. That does not mean that I don't support raising the estate tax exemption to a higher level to shield smaller estates—particularly the few

small business owners and farmers who end up being affected by the tax. I would support raising the exemption immediately to $4–5 million, with perhaps higher exemptions for small businesses and farms.

The current law, as amended last summer, provides for much slower and uneven estate tax relief. It has made the estate tax process much more complicated—not less. And when full repeal phases in in 2010, it will shield the wealthiest estates in America—worth hundreds of millions and even billions of dollars—from any tax liability. That's what the Kyl amendment proposed we make permanent and I think it would be terrible policy.

And it is made all the more terrible because it is so expensive. The Kyl proposal would cost $104 billion over the next 10 years—literally to protect a few thousand ultra-wealthy families. Even worse, from 2013–2022 it would cost other taxpayers over $800 billion to provide this ''relief.'' Most of this cost would be financed out of the Social Security surplus and at precisely the moment that the baby boomers start to retire in large numbers.

I will not jeopardize Social Security—which tens of millions of Americans rely upon for their retirement—to grant tax breaks to the heirs of multimillionaires and billionaires. For that reason I opposed the amendment.

Mr. SARBANES. Mr. President, I rise today in support of S. 1731, the 2002 farm bill. This legislation makes much needed changes to the failed farm policies adopted under the 1996 Freedom to Farm Act and charts a course that promises a better future for all of America's family farmers.

The 2002 farm bill takes significant steps in ensuring that the family farmers throughout my State and across the Nation are able to carry on in the face of a rural economy that has continued to lag behind the general economy for two decades. Over the past several years, the Congress has repeatedly had to intervene with a series of ad hoc disaster relief measures in an attempt to remedy the failed farm policy instituted under the so-called ''Freedom to Farm Act.'' The 2002 farm bill takes significant steps toward ensuring that Federal support is provided to those farmers who are most in need. The legislation seeks to reform the farm system by reinstituting an income safety net to provide more support in difficult years and less during good years. It contains provisions to help ensure that commodity payments that individual farmers can receive reach those who need them most: our small and medium sized farmers.

Agriculture plays a vital role in Maryland. It remains the State's largest commercial industry, providing over $17.5 billion in annual revenue. In all, agriculture and related industry employs about 350,000 residents, including those who own and operate Maryland's 12,400 farms. And 2.1 million acres, or 33 percent of the total area of my State, is used for farming. This represents the largest single land use in Maryland.

The commodity title of the farm bill contains a number of provisions that are of particular importance to Maryland's agricultural economy. I would like to just touch upon two, those concerning our dairy producers and our specialty crop farmers.

First, our Nation's dairy policy has been amended to reflect the unique needs of dairy farmers in the Northeast, including Maryland. The 1997 Census of Maryland Agriculture indicates that there are 1,091 dairy farms in the State, a number that is about 600 below 1987, and one which I fear will be significantly lower upon the completion of this year's census. If these small dairy farmers are to succeed, it is essential that they be able to compete on a level playing field. This legislation creates a new counter-cyclical payment system for northeastern states when minimum fluid prices fall below $16.94 per hundredweight.

The farm bill also includes provisions that address the needs of specialty crop producers, crops such as fruits and vegetables that do not benefit from traditional commodity support programs, which are making up an increasingly important part of Maryland's agricultural economy. The legislation includes several provisions concerning specialty crops, including a provision authorizing funds from USDA's Commodity Credit Corporation to be used to purchase these specialty crops over the next 5 years. Further, using savings incurred as a part of the payment limitations amendment, USDA's Risk Management Agency has been directed to develop cost-of-production insurance for a variety of specialty crops to cover documented costs of production in the event of low prices.

The farm bill also includes a significant increase in funding for vital conservation programs, devoting over $21 billion in new spending to conservation efforts over the next 10 years. This figure is double the current baseline spending and marks the largest increase in conservation spending ever in a farm bill. These additional funds mean increased funding for programs of great interest to the State of Maryland, including: wetland restoration, wildlife habitat incentive programs, and above all farmland and grassland protection, critical to helping farmers resist the pressures of sprawl.

The legislation authorizes two new programs targeted specifically at restoring the health of the Chesapeake Bay. First, it authorizes a $70 million nutrient reduction pilot program to encourage the development of innovative solutions to the nutrient pollution problem in the Chesapeake Bay.

Nutrient over-enrichment from agricultural operations and other nonpoint sources is one of the most serious problems facing the Chesapeake Bay. In 1987, the Chesapeake Bay Program established a goal of a 40 percent reduction of controllable loads of nitrogen and phosphorus entering the bay by 2000—a goal that was unprecedented in this country. Over the past 15 years, farmers in the six-state Bay watershed, with assistance from the Conservation Reserve Enhancement Program or so-called CREP and other USDA conservation programs, have made substantial progress in reducing nutrient inputs. From 1985 to 2000, total nitrogen loads to the bay were reduced by 51 million pounds, with the largest percentage of this reduction coming from agriculture. Unfortunately, we continue to fall short of the nitrogen goal. If we are to remove nutrient impairments to the bay, additional reductions from agricultural sources must be made and that will only be accomplished with new and innovative programs.

A recent summit of leading agricultural and marine scientists from across the Nation convened in Maryland concluded that the most effective means to reducing nitrogen losses from agricultural lands is to reduce the over-application of nitrogen that the crops do not use. Because some agricultural crops are relatively inefficient nitrogen users at high yields, the last pound of nitrogen applied to a crop is the least helpful to a farmer's yield, but the most likely to run off into our nation's waters. By providing incentives and financial protections for farmers to accept slightly reduced yields in some years, the Nutrient Reduction Pilot Program will reduce farmers' risks, lower their operational costs, and at the same time substantially decrease nitrogen losses to the environment.

The principal focus of the Nutrient Reduction Pilot Program, as conceived by bay-area scientists and organizations, is to create new incentives for farmers to reduce the application of nitrogen by at least 15 percent below what is normally considered best practice and to provide financial protection in the event of reduced yields. The way the program is envisioned, farmers in an area would bid in and say how much money they would demand for each pound of nitrogen reduced so long as the 15 percent threshold is met. Farmers do not have to agree to farm in any particular way; the only question is have they reduced their nitrogen applications at least 15 percent below recommended levels. The program allows for flexibility in achieving nutrient retention targets through such methods as cover crops, constructed wetlands, stream buffers, and switch grass. The program would be monitored based on actual performance by comparing how much nitrogen is applied to how much is removed in crops. It would also provide rewards based on each increment of superior performance. The program goal is to increase enrollment annually and have one million acres of cropland enrolled in year four. Five to 10 percent of the funding will be used to support promotion and education as well as monitoring and evaluation of program impacts.

I anticipate that in implementing this program, the Department of Agriculture will work with States and the private sector to create the mechanisms to carry out this provision. Specifically, I would anticipate that the Department would work to achieve the following in implementing the program: Target investments in nutrient reductions where they are most cost effective through competitive selection processes and through a bidding process to establish incentive rates; reward producers for each incremental level of nutrient reduction and possibly increasing incentive rates for each incremental level; test a variety of reduction techniques including both decreasing nitrogen inputs by at least 15 percent below land grant university recommended rates and increasing nitrogen removal from agricultural runoff; encourage alternative land use practices that reduce nutrient runoff while still producing income; and develop a complementary nutrient insurance program to provide financial protection to farmers who experience reduced yields due to reductions in nutrient applications.

This is a very important provision that will use market incentives to reduce nitrogen discharge into our Nation's largest estuary. This pilot program is a cutting-edge approach that allows watershed scale testing of a new practice that could provide major reductions in nutrient pollution throughout the Chesapeake Bay watershed while maintaining or enhancing farm viability.

Second, the managers' amendment authorizes the Chesapeake Bay Watershed Forestry Program. Forest loss and fragmentation are occurring rapidly in the Chesapeake Bay region and are among the most important issues facing the Bay and forest management today. According to the National Resources Inventory, the States closest to the Bay lost 350,000 acres of forest between 1987–1997 or almost 100 acres per day. More and more rural areas are being converted to suburban developments resulting in smaller contiguous forest tracts. These trends are leading to a regional forest land base that is more vulnerable to conversion, less likely to be economically viable in the future, and is losing its capacity to protect watershed health and other ecological benefits, such as controlling storm water runoff, erosion and air pollution—all critical to the bay clean-up effort.

Since 1990, the U.S. Forest Service has been an important part of the Chesapeake Bay Program. Administered through the Northeastern Area, State and Private Forestry, this program has worked closely with Federal, State and local partners in the six-State Chesapeake Bay region to demonstrate how forest protection, restoration and stewardship activities, can contribute to achieving the bay restoration goals. Over the past 11 years, it has provided modest levels of technical and financial assistance, averaging approximately $300,000 a year, to develop collaborative watershed projects that address watershed forest conservation, restoration and stewardship. With the signing of the Chesapeake 2000 Agreement, the role of the USDA Forest Service has become more important than ever. Among other provisions, this agreement requires the signatories to conserve existing forests along all streams and shoreline; promote the expansion and connection of contiguous forests; assess the bay's forest lands; and provide technical and financial assistance to local governments to plan for or revise plans, ordinances and subdivision regulations to provide for the conservation and sustainable use of the forest and agricultural lands. To address these goals, the U.S. Forest Service must have additional resources and authority, and that is what this provision seeks to provide.

Specifically, the provision codifies the roles and responsibilities of the USDA Forest Service to the bay restoration effort. It strengthens existing coordination, technical assistance, forest resource assessment, and planning efforts. It authorizes a small grants program to support local agencies, watershed associations and citizen groups in conducting on-the-ground conservation projects. It also establishes a regional applied urban forestry research and training program to enhance urban forests in the watershed. Finally it authorizes $3.5 million for each of fiscal years 2003 through 2006—a modest increase in view of the six-State, 64,000 square mile watershed.

The 2002 farm bill, also authorizes a number of critical programs which will be of great benefit to the people of my State and all Americans. The legislation includes provisions to address the development needs of America's rural communities, including infrastructure funds for businesses and communities to promote genuine revitalization. It doubles the amount proposed by the administration for nutrition programs, in an effort to ensure that no Americans go to bed hungry.

Finally, I am pleased that the legislation strikes an ill-conceived provision proposed by the U.S. Department of Agriculture to dispose of land at the Beltsville Agricultural Research Center. As you know, Beltsville Agricultural Research Center is the Nation's premier agricultural research facility. The research undertaken at Beltsville has helped ensure the irradication of certain plant and animal diseases and the production of high-quality agricultural products so that our farmers and agribusinesses can compete in the global marketplace. And the work at Beltsville has led to products and production methods that are safer for both consumers and the environment. Parceling out this property would most certainly be a step in the wrong direction. Beltsville Agricultural Research Center is a national asset which has served as a much needed buffer in the midst of an otherwise highly developed area. In my view, the Federal Government would not realize proceeds from the sale of this property sufficient to compensate for Beltsville Agricultural Research Center's great value to the Department of Agriculture and to the American public. This sale would be extremely short sighted and ultimately regretted.

In closing, I want to congratulate the chairman of the Agriculture Committee, Senator HARKIN, who has done a terrific job in ensuring that this legislation reflects the needs of America's family farmers and our nation's rural communities. And I urge my colleagues to join with me in supporting its passage.

Mr. BROWNBACK. Mr. President, for several months now, the attention of the Senate has been focused on the condition of farming in America. While this is a rite of some regularity every few years when we consider again the many hundreds of Federal programs that affect American agriculture, it is a subject of ongoing interest for those of us whose States rely disproportionately on farming. As Kansas' Secretary of Agriculture I had a unique opportunity to see all aspects of farming in our state and I rise today to briefly discuss the important priorities for Kansas in this farm bill.

Despite my concerns about many other provisions in this farm bill—I am very pleased to see that our carbon sequestration provisions are included. This portion could help build a new market for farmers—one that pays them 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 our cooperatives.

Carbon sequestration is a largely untapped resource that can buy us the one thing we need most in this debate: time. 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 expand this 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. This is a no-regrets policy—much like taking out insurance on your house or car. We should do no less for the protection of the planet.

In addition to this carbon sequestration provision, I am also pleased that we will be able to address another pressing environmental issue facing our country and particularly Kansas. Water, so essential to cultivation, is a top priority for Kansas farmers and I am pleased to say that this Farm Bill can help in this vital area as well.

The Kansas Water Authority has been considering ways to extend the usable life of the Ogallala Aquifer and assure ground water will be available to meet the needs of future generations. The long term sustainability of ground water supplies is a concern of mine and I am pleased with the portion of the farm bill that creates the Southern High Plains Aquifer Groundwater Conservation Program. This legislation takes the necessary first step to protect and conserve this valuable resource. A reliable source of groundwater is essential to the economy of Kansas. There have been dramatic declines in water table levels in the last half of this century. It is projected that if no action is taken the aquifer could in some portions be completely dry in 100 years. Kansas is one of the States where this decline is especially pronounced.

Through this new program in the farm bill, farmers will be given incentive payments for improving irrigation systems, changing from high-water intensity crops to low-water intensity crops, as well as converting from irrigation to dryland farming. Payments will be made as result of a true savings in groundwater resources. I am pleased to have worked with my colleague, Senator JEFF BINGAMAN, in supporting this portion of the farm bill and hope that the rest of our colleagues will see how important this program is to saving the usable life of the Ogallala Aquifer.

The farm bill currently under consideration is not the bill that I would have drafted, independent of the deliberations of this body. However, this effort is an initiative that is desperately needed by America's farm families. I am hopeful that, working with our colleagues in the other body, we will craft a compromise that protects our priorities. We need a farm bill that can provide a safety net for farmers, but that will not create negative incentives to overproduce and depress crop prices. We need a bill that supports expanding trade opportunities and respects our international commitments. We need a bill that will, in the President's words, ''offer producers a reliable safety net that protects them from the financial events and circumstances beyond their control, while enabling them to better manage their individual financial situation.'' I remain very hopeful that we will be able to speed help to American agriculture and remove the cloud of uncertainty that presently shrouds the prairie farms in Kansas and America's agriculture economy generally.

Mr. KYL. Mr. President, today, the Senate voted 98 to 0, recorded vote No. 27, in support of Senate amendment No. 2857 to S. 1731, the Agriculture, Conservation, and Rural Enhancement Act of 2001.

This amendment contained sense-of-the-Senate language that ''no Social Security surplus should be used to pay to make [sic] currently scheduled tax cuts permanent or for wasteful spending.'' I voted aye because I knew that a vote against it would be construed wrongly as a statement in favor of dipping into the Social Security trust fund.

Factual inaccuracies in the amendment deserve to be noted. It states that ''permanent extension of the inheritance tax repeal would cost, according to the administration's estimate, approximately $104 billion over the next 10 years, all of which would further reduce the Social Security surplus.''

This statement is factually incorrect. In fact, the confiscatory inheritance—or more accurately, the estate or death tax—will be repealed for 1 year in 2010. In 2011, the death tax is resurrected and at the potency of 2001 rates. I support making permanent the repeal of the death tax. This would in no way endanger the payment of future Social Security benefits.

Over the next 10 years, from 2003 through 2012, the President's budget projects a baseline surplus of $463 billion. That amount does not include any Social Security funds. A permanent death tax repeal is estimated to reduce Federal revenues by $104 billion over that time period. The resulting surplus, made up entirely of non-Social Security funds, would be $359 billion.

To further illustrate the inaccuracy of the contention that permanent repeal would reduce the Social Security surplus by $104 billion, it is useful to look at the effect of permanence in 2011 and 2012.

In 2011, the Federal Government is projected to generate a $199 billion surplus—a surplus that does not include any Social Security funds. Permanently repealing the death tax would reduce Federal revenues by $25 billion in 2011, which is 12.5 percent of the projected surplus for that year.

In 2012, the Federal Government is projected to generate a $395 billion surplus—a surplus that does not include any Social Security funds. Permanently repealing the death tax would reduce federal revenues by $61 billion in 2012, which is 15.4 percent of the projected surplus for that year.

The facts are clear. Making the death tax permanent will not deplete the Social Security surplus. Supporters of the continued existence death tax have long underestimated the depth of moral opposition to this ''virtue tax'' on our American families, small businesses, family farmers, and ranchers. Unfortunately, the death-tax supporters are now resorting to outright misstatements about the ramifications of permanent repeal. They are attempting to convince the country that making the repeal of this tax permanent will jeopardize our seniors' Social Security benefits. Not true.

That is shameful and false, and a bipartisan majority of the Senate acknowledged so—in approving, right after amendment 2857, my amendment to make repeal of the death tax permanent.

By a vote of 56 to 42, the Senate memorialized its support for the following statement:

''Therefore, it is the Sense of the Senate that the repeal of the estate tax should be made permanent by eliminating the sunset provision's applicability to the estate tax.''

Mr. KOHL. Mr. President: I rise today in support of the farm bill and look forward to the House and Senate conferees working quickly to ensure that it is in place for the 2002 crop year. I also rise to explain my opposition to the amendment offered unsuccessfully earlier today by Senator DOMENICI regarding the dairy program included in the Senate version of the farm bill. This amendment would have replaced the dairy program that exists in the farm bill with a program that pays producers regardless of the actual market price of milk. Furthermore, the amendment failed to place a cap on the level of production eligible for a payment.

The Senate version of the farm bill restores a much needed safety-net for farmers and ranchers throughout the country. This bill rewrites the 1996 farm bill which has left farmers vulnerable to the continued downward spiral of prices. Because of the 1996 bill's deficiencies, Congress has had to approve billions of dollars in emergency assistance every year. This is not an effective or responsible or fair way to set the farm policy for our Nation, and I am pleased that the Senate has stepped up to the task of providing needed and honest reform. The Senate bill also provides significant new spending for conservation and nutrition programs. And it targets assistance where it is needed, the small family farm, by limiting Federal payments to $275,000 a year. All in all, the Senate bill is a comprehensive measure that will help farmers in Wisconsin successfully weather volatile price fluctuations and other risks associated with farming.

Of particular interest to my State is the dairy title of this bill. It is counter-cyclical creating a price safety-net for dairy producers when milk prices fall below the 5-year all-milk price or a $16.94 class I price. The Domenici amendment would have made payments to producers regardless of market conditions. I cannot support that. We should provide adequate relief to producers when prices decline, not simply pay farmers to over-produce and depress prices.

Another key component of the dairy program currently in the Senate version of the farm bill is the limitations on payments. I worked with Senator DASCHLE and Senator HARKIN to make sure payments under our dairy

program were capped so that benefits would not flow primarily to huge farms. We limit payments to 8 million pounds of production or the amount of milk produced in a year by approximately 400 cows. Given that the average herd size in Wisconsin is 65, I would have preferred a much lower cap. However, the final number was a compromise capable of winning the support of a majority of the States. Unfortunately, the Domenici amendment would undo this fragile coalition by removing any limit on the payment a producer can receive. This uncapping of the benefits would have shifted the level of assistance from the small and medium size producers, who need the help the most, to the larger operators. And while that may be popular out west, where dairy herds routinely run to the thousands, it is unfair to the Midwest and Northeast where smaller family farms predominate.

The dairy program in the Senate bill is not ideal for me nor any other Senator in this body. Yet it represents a significant improvement over previous policies, such as regional price-fixing compacts, and represents a delicate balance between previously warring regions. I am pleased that the Senate rejected the Domenici amendment and agreed to preserve the dairy program we worked out, perhaps the only dairy assistance plan that can garner majority support. Furthermore, I urge the conference committee to consider carefully the enormous effort behind and enormous fragility of the dairy section of this bill. I plead with the committee not to return to the days of bitter regional wars over compacts and other special dairy deals. Let this farm bill be remembered as the legislation that marked the beginning of national and fair dairy policy in this country.

Mrs. LINCOLN. Mr. President, it is with great regret that I vote against the farm bill today. As a member of the Agriculture Committee, I have worked extensively on this bill at the committee level and on the floor. I appreciate Chairman HARKIN and his staff, who have been tireless in their efforts to work with me on behalf of Arkansas farmers. The bill we passed out of the Agriculture Committee was a strong bill that was carefully balanced to represent both the diversity of our various regions and the different elements of our rural economy. But passage of the Dorgan-Grassley amendment on payment limitations last week as well as prohibition on packer ownership of livestock make it untenable for me to support this bill.

I won't go into great detail on the effect of the Dorgan-Grassley payment limitations on Arkansas farmers. Instead, I refer my colleagues to the February 7th CONGRESSIONAL RECORD and the extensive remarks I made during debate on the amendment. In addition, I would like to submit for the RECORD an article from today's Arkansas Democrat-Gazette, which outlines the effect this amendment will have on Arkansas farmers. This article refers to a Congressional Research Service study which finds that a single farmer growing rice will hit his limit at only 487 acres. As I told my colleagues during debate on the Dorgan-Grassley amendment, many farmers in Arkansas have had to extend their farms to over one thousand acres in order to break even because their input costs are so high.

Last week, I cautioned my colleagues that the information they had seen in the press and on websites about plutocrats getting rich off farms payments was misleading. I said that the Environmental Working Group, which was lobbying heavily in favor of payment limitations, did not represent the family farmer. Now it seems that at least one editorial writer agrees with me. I quote from the February 11th Washington Times: ''Make no mistake. The agenda of the Environmental Working Group and its financial backers is not simply to eliminate unfair public subsidizes to agribusiness, but to cripple agribusiness altogether. . .''

Freedom to Farm demanded that farmers engage the volatile and subsidized global marketplace and learn how to become more competitive. Now, with passage of these terribly unfair provisions, the Senate would attempt to penalize America's farmers and ranchers for taking the very measures they need to complete in that same global marketplace.

Although I sadly vote against the farm bill today, I look forward to working with Chairman HARKIN and members of the conference committee to modify this version of the farm bill so that I might support a more balanced and fair farm bill conference report.

Mr. President, I ask unanimous consent that the editorials to which I referred be printed in the RECORD.

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

[From the Washington Times, Feb. 11, 2001]

BEHIND THE GREEN CURTAIN

(By Michelle Malkin)

Among the political chattering classes, there's a big buzz over a tiny activist organization called the Environmental Working Group.

Both liberals and conservatives, including the left-leaning New York Times editorial page and the right-leaning Wall Street Journal editorial page, have praised the group's farm subsidy database. The National Journal notes that the research vaulted the group ''into the big leagues and, according to many observers, profoundly shaped the congressional debate over pending farm legislation.'' Hundreds of stories from The Washington Post on down have cited the group's findings over the past month.

Posted on the Internet, the Environmental Working Group database documents $71 billion in federal agricultural handouts from 1996–2000. Some of the money has gone to truly undeserving and ridiculous recipients, including prosperous companies, members of Congress, and part-time celebrity ''farmers'' such as professional basketball star Scottie Pippen, banking giant David Rockefeller, media mogul Ted Turner and ABC news personality Sam Donaldson.

As a longtime critic of government pork, I agree that the group's database is a commendable public service. But conservative opponents of farm subsidies should perhaps be a little warier of jumping into bed with these radical greens. The Environmental Working Group is not just a humble ''nonprofit research outfit,'' as it is being described by the mainstream press. It is a savvy political animal funded by deep-pocketed foundations with a big-government agenda of their own. And it is engaged in aggressive eco-lobbying that belies its image as an innocuous public charity dedicated to ''education'' citizens.

The Environmental Working Group's main claim to fame is its anti-chemical fear-mongering. It scares pregnant women about the nondangers of chlorinated water and says even one bite of some fruit sprayed with pesticides could cause ''dizziness, nausea and blurred vision.'' The group has also declared war on nail polish, hairspray, playgrounds, portable classrooms and ABC News correspondent John Stossel.

The Environmental Working Group, a nonprofit, 501(c)(3) charity, thrives on funding from an array of extremely liberal foundations. One of its leading benefactors was the W. Alton Jones Foundation—which failed miserably a few years ago in its widely publicized attempt to scare people out of using plastic sandwich bags by claiming they contained endocrine-disrupting chemicals. The group continues to tout the foundation's efforts and plug its alarmist junk science book, ''Our Stolen Future,'' on the group's Web site.

In 2000, the Environment Working Group received a $1.62 million grant over three years from The Joyce Foundation. On its Web site, the eco-advocacy foundation describes the grant's purpose in a political terms as supporting ''a concentrated program of agriculture policy reform.'' But in the foundation's tax filings, the purpose of the Environmental Working Group grant is stated in more explicit detail: ''For work on 2002 Farm Bill.''

Under federal tax laws, public charities can engage in limited political activities—but the Environmental Working Group's zealous legislative lobbying raises questions about its status as a public charity. In a complaint to be filed this Friday with IRS Commissioner Charles Rossotti, the Bellevue, Wash.-based Center for the Defense of Free Enterprise charges that the Environmental Working Group's ''excessive lobbying and politicking'' activities are ''clearly illegal and should (at a minimum) result in revocation of the organization's tax-exempt status.''

The complaint charges that the group hid its lobbying political expenditures, failed to register as a lobbyist in California, submitted false or misleading reports with the IRS, and acted as a political action organization in violation of 501(c)(3) rules. Ron Arnold, executive vice president of the Center for the Defense of Free Enterprise, warns: ''The Environmental Working Group is not what it seems. Its goal is not protecting the environment. Its goal is power—political power.''

Make no mistake. The agenda of the Environmental Working Group and its financial backers is not simply to eliminate unfair public subsidies to agribusiness, but to cripple agribusiness altogether in favor of ''organic'' alternatives, increased regulation of manufacturers and tax-supported environmental conservation programs.

Sometimes the enemies of enemies don't always make the best of friends.

[From the Arkansas Democrat-Gazette, Feb. 13, 2001]

SUBSIDY CUTS TO WOUND RICE, COTTON FARMS

(By Kevin Freking)

WASHINGTON.—A report from the Congressional Research Service confirms that the lower federal subsidy limits approved by the Senate last week would be felt mostly by the nation's rice and cotton farmers. That means Arkansas, the nation's largest rice producer, would be bit particularly hard.

The nonpartisan agency projected the acreage that subsidy recipients could farm before they reach the proposed $275,000 limit. The limit for rice farms would be reached at 731 acres; the limit for cotton farms, at 1,321 acres.

''For cotton and rice, those are not large farms,'' said Andy Miller, assistant director of governmental affairs for the Arkansas Farm Bureau. ''We have many folks with farms larger than that.''

How many? It's hard to say at this point, but the number will reach into the thousands, agriculture experts say.

The average farm in Arkansas is slightly more than 300 acres, but most rice and cotton farms are far larger. Census statistics from 1997 show that nearly 1,000 rice farms in Arkansas covered at least 500 acres. And about 500 cotton farms covered 1,000 acres or more.

But even those numbers are conservative, experts said. Arkansas has experienced continued consolidation of farms in the past five years; there are fewer small farms, but the number of large farms has grown.

Also, Arkansas farmers who are not married will be ineligible for a spouse allowance. Their limit would be $225,000 in subsidies, so they could plant even fewer acres. For example, a rice farmer who does qualify for the allowance would hit his limit at only 487 acres, according to the Congressional Research Service.

The limit is part of the farm bill the Senate continued to debate Tuesday. It was supported by many rural lawmakers from the Midwest, and the report shows that farmers in that region will not be affected by a $275,000 limit. For example, a wheat farm will cover nearly 6,000 acres before it reaches the maximum subsidy payment.

The House has already passed its version of the bill, which will set the nation's farm policy for the next five to 10 years. Its bill set a $550,000 limit on subsidies, up from $460,000 under current law.

HOUSE, SENATE VERSIONS

The Senate could bring its bill to a final vote as early as today. If the bill passes as expected, it will be sent to a conference committee in which negotiators would work out the differences between the House and the Senate versions of the bill.

Miller said the Arkansas Farm Bureau has little choice but to oppose the bill before the Senate, ''What we're hoping for at this point, if it does come out of the Senate with all these onerous measures for Southern agriculture, that some of this can be worked on in the conference committee,'' Miller said.

Congressional staff members said it was unclear whether any Arkansans would be named to the committee. The state has two senators, Republican Tim Hutchinson and Democrat Blanche Lincoln, and two congressmen, Democrats Marion Berry and Mike Ross, on agriculture committees.

One rumor expanded upon in a Wall Street Journal editorial Tuesday is that a trade is in the offing. Three senators from the Northeast—Jim Jeffords and Pat Leahy of Vermont, and Jack Reed of Rhode Island—voted against the $275,000 limit when most observers expected them to vote for it. Leahy and Reed are Democrats; Jeffords is the independent whose switch from the Republican Party put the Democrats in control of the Senate.

Leahy, almost sure to be named to the conference committee, could back a higher subsidy cap in exchange for Southern support for the resurrection of a dairy compact that guarantees New England dairy farmers a higher price for their products.

''Nobody will be surprised if [Republican Sen. Thad] Cochran [of Mississippi] suddenly likes the idea of a milk compact. So New Englanders will vote to subsidize rich farmers in Mississippi in return for Southerners voting to soak milk drinkers everywhere,'' the Journal said.

LIVESTOCK OWNERSHIP

One of the Senate farm-bill votes Tuesday kept a ban on meatpacker ownership of livestock. That's an important issue to Tyson Foods Inc. Tyson recently bought IBP to make the Springdale-based company the largest meat producer in the world.

A bid to kill the ban, backed by both Hutchinson and Lincoln, failed 53–46. IDP officials released a written statement expressing disappointment with the vote.

''IBP depends upon independent livestock operations of all sizes to supply our plants,'' company officials said in a press release. ''While we have no interest in becoming a big player in the livestock feeding business, we believe more government regulation, such as those in the proposed ban, will produce unintended consequences and be detrimental to the livestock industry.''

The bill would ban packing companies from owning or having control of cattle, hogs or sheep within two weeks of their slaughter.

The provision is wildly popular in the Midwest, where livestock producers fear they are losing their independence and market power as packing houses gain control over livestock production, much as they have already done with the growing of chickens. Poultry was exempt from the Senate legislation.

IBP officials said that without some degree of packer participation in livestock production, some plants may have to close.

The provision is not part of the House-passed farm will and so would present another issue for the conference committee to settle.

An amendment offered Monday by Hutchinson and Lincoln will not make it to the floor. A Hutchinson spokesman said managers of the bill declined to offer an amendment that deals with double-crested cormorants.

The large, fish-eating birds are causing havoc for many fish farmers in Arkansas. The senators proposed to let farmers apply to the Agriculture Department for permits to rid their farms of the birds. Now those permits must continue to come from the Fish and Wildlife Service.

The Senate voted to add $2.4 billion in disaster assistance to compensate farmers in Montana and other states who lost crops to drought last year. The Bush administration has already said the bill costs too much, but the disaster aid was approved 69–30.

Mr. EDWARDS. Mr. President, I rise today to offer my support for final passage of the farm bill. I want to thank Chairman HARKIN for his hard work and strong leadership in getting this bill through the Senate.

Not a day goes by that a North Carolina farmer doesn't call my office and tell me that he or she can't get credit with a local bank and can't make planting decisions. And you can't really fault the banks; they are reluctant to make decisions while some here try to play partisan games with farm programs. We must get this bill passed and to the conference committee. We must send a signal to our farmers and our farm lenders that their Government will provide them a safety net.

But while I recognize the importance of moving this process along, I still have serious reservations about this measure and the effect the stringent payment limitations enacted here on this floor will have on my farmers. The Grassley-Dorgan amendment, which I did not support, could quite literally mean the end for many of North Carolina's farmers.

Those who supported this amendment did so in an effort to rid the farm subsidy system of abuses and that's an important goal. I don't think there is a person, myself included, who would argue against ensuring millionaires aren't profiting from Government payments. So I don't question the good faith of those who offered this amendment. But if this amendment remains in the final conference report, it won't rid the system of abuses. In fact, his amendment would hurt those hard-working men and women who are trying to make a decent living on family farms.

Some people like to call this amendment the ''Scottie Pippen amendment'' after the basketball player who reportedly received farm subsidies. I am sure we have all heard other stories about millionaires supposedly profiting off of this system. But I want to tell you a story about the real impact of this amendment.

Kenneth is a cotton farmer in North Carolina. It costs about $475 an acre to grow cotton in North Carolina, and this year the price was roughly 36 cents per pound. For Kenneth, that meant he lost about $150 an acre—and he would be the first to tell you last year was a good year.

So he got by with subsidies and his Loan Deficiency Payments. Kenneth poured almost every cent of that money back in to that farm. And if this amendment remains in the final bill, Kenneth will no longer be eligible for most of the Government's assistance programs and I suspect he wouldn't be able to survive 1 year.

And if you think he should just hang it up, then what should he do for the other families who partner with him to work that farm? What do you suggests Kenneth do for the farm hands—all with families to support—who will be out of work? And let me tell you, eastern North Carolina is struggling and employment opportunities are few and far between.

I am sure if you asked him, Kenneth would tell you he doesn't like receiving Government payments. I don't want him to have to give up his farm because we here passed an amendment with unintentional consequences.

Talk to my farmers. Talk to the dozens of people who are calling my office every hour scared to death that if this

amendment remains in the final conference report, they'll be put out of business. They will tell you the reality. And not a single one of them is a rich, corporate farmer. They are the salt of the earth, hardworking men and women who want to make a decent living on their land.

None of us wants wealthy people to profit from farm subsidies. But payment limitations and gross income caps don't prevent millionaire athletes from profiting from farm subsidies; they punish families with massive debt and not a penny of cash flow, no matter what they are worth on paper.

I urge the conferees to remove this amendment. I trust the conferees will address this problem before they send their report to the full Senate.

Mr. DOMENICI. Mr. President, water laws are always an issue of great concern. However, they are of even greater concern in this day and age—especially in the West. This was so evident late last night and this morning when a deal was struck that relieves much of the West from participating in the Reid-Bingaman Water Conservation Program, but effectively sends New Mexico water down the river.

All Western Senators, whose States are in much the same situation as New Mexico, opposed the Reid-Bingaman amendment. I came to the floor today and learned that in an attempt to keep this ill-conceived program alive, all Western States with the exception of five—Nevada, New Mexico, Oregon, California, and Washington—were exempted. This was an attempt to get most of the Western Senators who oppose this program from voting against it in its entirety.

I was not consulted about New Mexico being allowed to drop out like other Western States because apparently Senator Bingaman wanted to keep New Mexico in the program—a program that is vehemently opposed by the New Mexico Cattle Growers, the New Mexico Farm and Livestock Bureau, the New Mexico Wool Growers, Inc., the New Mexico Public Lands Council, the Dairy Producers of New Mexico, the Arizona and New Mexico Coalition of Counties, the Middle Rio Grande Conservancy District, the Elephant Butte Irrigation District, and the Carlsbad Irrigation District.

Major policy changes with regard to State water issues should be considered carefully. The Reid-Bingaman proposal has never been the subject of a hearing. My staff has been given at least six drafts of this language—a sign that this should be introduced as legislation, referred to committee, and then brought to the Senate with the benefit of committee review.

The Reid-Bingaman proposal is a State program only in appearance—especially for those Western States who are reclamation States, such as New Mexico. There are many questions left unanswered when it comes to reconciling the Reid-Bingaman program with Federal Reclamation law. For example, does the entity that holds water rights in a reclamation project mean the Secretary of the Interior, the irrigation district or the individual landowner who receives the water under contract with the irrigation district? Is this relationship altered if the land is under a management contract or is leased in accordance with reclamation law? Do all of these parties have to agree? If one landowner enters into an agreement, what happens to the repayment obligations of the irrigation district? Can the irrigation district be forced to transfer water outside district boundaries by the landowner?

Another problem with the Reid-Bingaman program is that it allows the Secretary or a State to use condemnation powers under other authority to further the purposes of this program. I see nothing in this language that prevents either the Federal Government or a State from extorting compliance and eligibility. It is evident from the comments spoken on the floor of the U.S. Senate that the clear objective of this program is to take water from farmers for urban needs by laundering water for conservation.

The Reid-Bingaman program requires that States have a program to protect in stream flows. New Mexico does not have such a program and states that do have a program may not have as comprehensive a program as the sponsors of this amendment want. The New Mexico legislature has previously defeated legislation that would create any type of water bank or similar program.

State water laws—especially in the West—are all different. Yet, the thrust of this program seems to be forcing states to conform their water laws into some Federal mold.

Additionally, the Reid-Bingaman amendment allows for the transfer of water to a ''designee of the State.'' That could be a third party. Presumably, one could be ordered to transfer rights to an urban area or private group or individual. It is not completely clear, but it seems that state water law, especially as it applies to junior appropriators is being preempted.

The ''savings'' clause in this amendment is too limited. It does not preserve any limitations under other Federal law, nor does it clearly preserve interstate compacts, treaties and the myriad of regulations that define interstate streams.

Finally, I have heard many claim that this program is strictly voluntary. It is voluntary on its face only. The language is drafted to read that anyone who participates is ''willing.'' That is part of what is wrong in the West. We don't have enough water and people do not want to give up what little of this resource they have. If there were willing sellers out in New Mexico, all of the groups I mentioned above would not oppose the Reid-Bingaman program.

Mr. AKAKA. Mr President, I rise today as we debate the farm bill to remind my colleagues of the vulnerability of American agriculture to acts of biological terrorism directed against livestock and crops, commonly known as ''agroterrorism.'' In December, I addressed the need for new technologies to detect biological agents that could be used in malicious attacks against our Nation's agricultural industry.

The hard-working men and women who provide our meat, poultry, and dairy products, our fruits and vegetables, and our lumber and fibers now have a renewed sense of urgency when they consider potential threats to American agriculture. Responding to diseases in plants and animals has always been a fact of life for American farmers and ranchers. Now they are confronted with the possibility of intentional acts to release biological agents that cause disease in crops and livestock.

The impact of an animal or crop disease outbreak could be swift and devastating to the U.S. economy. Although the threat to our Nation's food supply is a serious concern when discussing agroterrorism, we must remember that the primary purpose of agroterrorism is to inflict economic damage. The combined annual sales from the U.S. agricultural sector exceed $100 billion. American agriculture accounts for 13 percent of the gross domestic product and nearly 17 percent of domestic employment. The U.S. accounts for about 15 percent of all global agricultural exports.

The impact of agroterrorism is not a just concern for rural America alone. All of America benefits from a healthy agriculture sector. Therefore, all of America must share in protecting our critical agricultural resources.

Agricultural security for American farmers and protection from the intentional release of biological agents that cause disease in crops and livestock are essential features of the agroterrorism legislation I am drafting. My legislation will help American farmers and ranchers protect their investments and livelihood by providing grants or loans for security measures on their farms and ranches.

As chairman of the Subcommittee on International Security, Proliferation, and Federal Services I have held hearings on the need for enhanced coordination of the Federal agencies that respond to acts of conventional bioterrorism. The same is true for agroterrorism. By strengthening agency coordination and emergency response planning, we will also be preparing the American agricultural sector to deal with both intentional and natural crop and livestock disease outbreaks when they occur.

Many of the diseases that potentially threaten American crops and livestock have been virtually eliminated within the U.S. borders, or have never appeared on American soil. For this reason, a crucial element of agricultural security will involve the surveillance of plant and animal disease outbreaks

in foreign countries. The U.S. Department of Agriculture Animal and Plant Health Inspection Service, APHIS, already serves as an agricultural disease watchdog at our borders and around our farms. We must support ongoing APHIS efforts to detect and eradicate diseases at home by establishing stronger connections to the international community of agencies and organizations that monitor plant and animal disease outbreaks.

A critical component of this legislation will involve establishing a legal framework for agroterrorism, including penalties for those who perpetrate destructive acts against crops and livestock. Indeed, acts of biological terrorism are not limited to the intentional release of disease agents to harm humans, livestock or crops. Deliberate and destructive acts against agricultural and forestry research programs are also routinely perpetrated by extremists who oppose biotechnology. These acts of domestic terrorism do not involve the direct use of biological agents, but they can be just as destructive as the intentional release of disease-causing agents.

Recently, States from Washington to Maine have experienced destructive attacks on agricultural research projects. Reports of these acts of vandalism are often suppressed to avoid drawing further attention to the vulnerabilities of Federal and private agricultural research projects. Quite frequently, these attacks fail to destroy biotechnology experiments. Instead, the hard work accomplished by researchers who use traditional crop breeding methods is wiped out in these senseless and illegal activities.

In closing, I would strongly urge my colleagues to lend their attention and support to legislative efforts that will benefit all segments of the U.S. agriculture economy. American farmers, Federal, State and local emergency managers, law enforcement officers, agriculture researchers, and consumers require our help in addressing concerns about the intentional or inadvertent spread of exotic and emerging agricultural diseases and the economic security of the United States' agriculture industry.

Mr. HATCH. Mr. President, nothing the Senate does ths session will be more important than passing a good farm bill that provides a strong safety net and some certainty for our Nation's farmers.

I believe that Chairman HARKIN has put forward a sincere effort to accomplish these goals. However, I find that much to my regret, I must vote against this legislation. There are a number or provisions in the bill that lead me to this conclusion, but chief among them is that it puts at risk our system of water rights in the West. I refuse to compromise Utah's water rights.

Under this bill, farmers would be required to sell or lease their water rights to the Federal Government if they choose to participate in a specific conservation program. This sets a terrible precedent. I strongly oppose using Federal dollars to encourage farmers to give up their water rights. The Federal Government has enormous financial resources with which it could purchase unlimited acre-feet of precious water in the West. I cannot support a large incentive aimed at stripping our farmers of the resource that makes our way of life possible in the West.

The water conservation program I am referring to would also create an unprecedented link between the Endangered Species Act and farm programs. I have no doubt that this will lead to conflicts between the goals of the act and the livelihood of our farmers. From what I have seen, when such a conflict arises the farmer always loses. Our farm families struggle enough. We shouldn't add to this burden.

From a broader perspective, I disagree with the overall approach of this farm bill. I believe it is a return to the outdated, socialistic farm policies of the past. As it is written it, 60 percent of farmers will not benefit from the programs in this bill. The bill provides many billions of dollars on subsidies for overproduced commodity crops such as wheat, cotton, and corn. These crops are important, but what about the many crops being grown by other farmers? In my opinion, the Harkin farm bill does too little for farmers of minor crops, who face just as many difficulties as the farmers of the main commodities.

Still, it is very difficult for me to vote against the farm bill today, because there are provisions in it that Utah's farmers desperately need. I was particularly pleased that the Wool Marketing Loan Deficiency Payment Program for our struggling wool growers was included. This was one of my top priorities. Also important, was the passage of the Baucus amendment, which I supported, that would give needed emergency financial assistance to livestock producers and apple growers who have suffered losses due to drought conditions. Finally, I was able to add a provision that would begin the process of creating a free market for state inspected meat products. Of course, I will fight to keep these provisions in the bill as it goes through the conference committee.

These and other aspects of the farm bill are worthy of my support. However, I do not believe we should benefit farmers on one hand, and threaten their livelihoods and water rights on the other. That is not what a Farm Bill should do, and for that reason I oppose it.

Mr. KERRY. Mr. President, I rise to make a few remarks concerning my amendment No. 2852 to the farm bill, S. 1731. As chairman of the Oceans, Atmosphere and Fisheries Subcommittee I am pleased to be joined by my ranking member, Senator SNOWE, in offering this amendment. In addition, I am pleased to be joined by Senators KENNEDY and COLLINS, two other New England Senators, who know all too well the problems that our fishermen face in New England.

This amendment will permanently revoke Northeast multi-species fishing permits using a ''reverse auction,'' a measure that has been developed to ensure we remove the maximum amount of capacity from the fishery at the lowest possible price to the taxpayers. We have more than 1,600 permits in New England. Approximately two-thirds of these permits allow fishermen to fish for only 88 days each year. The remaining fishermen can fish, on average, 130 days a year based on historical days-at-sea usage. As a result of a similar provision we secured in July of 2000, the National Marine Fisheries Service has begun the process of reducing latent capacity in this fishery, but recent events have indicated the need to expand the program further.

While the New England stocks are slowly recovering after years of substantial restrictions, additional limits are coming. The most recent scientific advice suggests that we need to cut days-at-sea by 65 percent in order to meet our 10-year rebuilding targets for Gulf of Maine cod. Basically, two-thirds of New England fishermen could be down to 31 days a year of fishing, from the 88 days they are allotted today. Obviously working families would be severely affected by such cuts. We also desperately need to reduce capacity so that the size of the fishery is in proportion to the available resource. The current latent permit capacity reduction program will help tremendously, but I am convinced a second round is needed to build a sustainable fishery.

To add pressure to this already difficult situation, the U.S. District Court for the District of Columbia will shortly be issuing its determination on additional management measures that must be taken in this fishery to meet Federal legal requirements as the result of a lawsuit filed by a number of conservation groups against the National Marine Fisheries Service. The plaintiffs have already prevailed in that case, in which the court found unequivocally that the Federal Government, which has the authority to approve or disapprove plans developed by the New England Fishery Management Council, had not ensured that these plans included rebuilding measures required under the management plan nor measures to limit the bycatch of fish. In this fishery, bycatch largely results from vessel-specific mortality controls called ''trip limits.'' I must agree, as does every fisherman I know, the idea of throwing fish overboard in order to meet management goals designed to increase fish abundance is both counterintuitive and wasteful. In order to fix the problem we need to increase the trip limits for our fishermen so they no longer have to waste good fish in order to make a day's pay. However, we cannot increase these trip limits until we have reduced the number of permits available for this fishery.

This is unfortunately a long-term problem for many traditional fishing communities in New England. This money will allow some fishermen to retire with dignity, others no doubt will seek job retraining and enter another profession. I am grateful to the managers of this bill, Senators HARKIN and LUGAR, for agreeing to a voice vote on this amendment. I am confident that this money will allow us to build both sustainable fisheries and sustainable fishing communities in New England in the years to come.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank my colleagues for their cooperation and for working through this bill. It has taken a good while. But I believe, all in all, we have come out with a well-balanced bill. It is a comprehensive bill, and it does reflect a great deal of bipartisan cooperation.

I especially commend and thank my ranking member, Senator LUGAR, the former chairman of this committee, for all of his help and his support, his guidance, his suggestions, his very close working relationship to get this bill through. We had an excellent working relationship in the committee. We did that expeditiously.

I knew we were going to have to have votes on the floor. As it turned out, we did have quite a few on different parts of the bill. But I believe, all in all, the relationship has been a great relationship. I thank Senator LUGAR and his staff for that.

I also thank Senator REID for all of his help in pulling people together and getting the votes structured and making sure that we had an orderly process on the floor.

I thank our majority leader, Senator DASCHLE, also a member of the Agriculture Committee, for all of his guidance and leadership in bringing this bill to its final conclusion.

I thank Senator LOTT on the other side for working with us. There were numerous times when I went to Senator LOTT, and we discussed what we were going to do. I can say, without any hesitation, at no time was he less than most helpful in moving this process along. So I thank Senator LOTT for that.

We have had some disagreements, of course. That is the crucible of democracy that we have. We have had our votes. But what may not have been fully reflected on the floor is the extraordinary degree, I believe, of bipartisan cooperation and collaboration we have had throughout the bill.

As I mentioned a number of times, all titles that we reported out of the Committee were reported on bipartisan votes. We have a demonstrated bipartisan majority for this bill on the Senate floor.

So, as I say, the bill is comprehensive. It is balanced. It is the economic recovery vehicle and jobs bill for rural America. We have met our responsibilities to farm families, rural communities, consumers, and the environment. We have done so while fully complying with our budget limitations.

I believe the highlights of the bill are the following:

First, we restore and rebuild the farm income safety net that has been missing for the last 6 years.

Second, we have doubled our commitment to conservation. There are more resources devoted to conservation in this bill than any farm bill that has ever come to the Senate. We are proud of that. We have a new conservation program—the Conservation Security Program—that will move us in a new direction in this country, that will expand conservation to every part of America. Whether it is a corn or soybean field in Iowa, an orchard in Michigan, a citrus orchard in Florida, a vegetable farm in New Jersey, or an almond farm in California, this Conservation Security Program is going to promote conservation throughout the country.

Third, on rural development, we include substantial new funding for a variety of rural community development activities. We also create and fund new rural development initiatives, including new programs for rural equity capital investments in rural America. Senator LUGAR and his staff, and my staff, have worked closely together to develop this consensus rural development title. I believe it is going to provide for crucial new investment in rural America.

Fourth, we have a new title in the farm bill that has never been in any farm bill, a renewable energy title, with $550 million mandatory spending over 5 years for things such as ethanol and soy diesel, and for biomass, wind energy, and hydrogen energy. If nothing else, we learned from September 11, I think, that we have to address our dependance on foreign oil. This bill will start to do that by developing the renewable energy resources in our country.

Fifth, nutrition. In our bill we now over twice what the administration proposed. The administration proposed $4.2 billion in increased nutrition spending over the next 10 years. We have $8.9 billion in this bill. So we can be proud of the fact that we make this great effort to make sure no one goes to bed hungry in America, to make sure we have an adequate system of nutrition assistance through food stamps, emergency food assistance and commodity distribution, in addition to school breakfast and school lunch and other programs.

Lastly, on credit, agricultural trade, agricultural research—all of these titles make substantial improvements to what we have done in the past.

So, in conclusion, I thank Senator LUGAR. I thank all of the staff. I thank the staff on our side. I want to thank all of them by name: Vershawn Perkins, Frank Newkirk, and Bob Sturm. I especially thank Bob because all of the time we were out of our office in the Hart Building, we crowded into his space. I really thank Bob Sturm for all of his help in working out the situation of taking care of our staff.

I thank Terri Roney, Lloyd Ritter, Charlie Rawls, Erin Peterson, Doug O'Brien, Stephanie Mercier, Mary Langowski, Jay Klug, Susan Keith, Eric Juzenas, Sara Hopper, Amy Fredregill, Alison Fox, Kevin Brown, Seth Boffeli, Karil Bialostosky, Rich Bender, and, of course, our outstanding staff director, Mark Halverson.

I cannot say enough good things about Mark and all of the long hours he has put in. I do not know if he has slept in the last 4 months. I do not know if he has or not, but I think he deserves a break now. He has performed superlatively in, guiding, directing, and working with our staffs.

On the other side I will not mention all of the minority staff. I know Senator LUGAR already did. But I do want to mention Keith Luse, the minority staff director, formerly the majority staff director. Again, I thank Keith Luse for all of his wonderful working relationships with me personally, with Mark Halverson, Charlie Rawls, and all the people on our staff. It has just been outstanding. I just cannot thank you enough for all the kindness and generosity you have given to me and to our staff throughout this process.

So, Mr. President, this is a bill that we can go to conference with that we can be proud of. It had strong bipartisan support as we came out of committee. We worked our problems out on the floor, and I think we have a bill that will revitalize and renew rural America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the vote on final passage of H.R. 2646 occur at 12:30 p.m. today with rule XII, paragraph 4, waived.

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

Mr. DASCHLE. Mr. President, we are moving to final passage of the farm bill shortly. I would like to make a couple of comments prior to the time we have the vote.

First, I commend our chairman for the extraordinary job he has done. He has been remarkable over a long period of time. His leadership and his cooperation and the tremendous effort he has put forth are to be commended.

Again, one of the most able ranking members we have in the Senate is the ranking member of the Senate Agriculture Committee, Senator LUGAR. I admire him immensely for his intellect and for his ability to work with people on all sides and all philosophies. Once again, he demonstrated his ability, his leadership, and the kind of person he is each and every day he came to the floor. I commend him as well.

Let me also commend, as Senator HARKIN and Senator LUGAR did, the staff. We are very dependent upon our

staff on all pieces of legislation; in particular, on the complexities of agricultural policy. I must say for the record and emphatically remind my colleagues of the work that they do, especially the staff I am fortunate to have in my office. I am very grateful to them for their work, for their persistence, for their ability to come up with compromises oftentimes when we really had not thought there was one. I thank them publicly and thank them especially today as we bring this debate to a close.

This has been the longest debate on a farm bill in over 30 years. Sometimes it has felt that way. Thanks to the work done in the committee and on the floor, we now have a farm bill and a farm policy that is improved in many ways, providing certainty for producers and increased commitment to conservation, expanded nutrition, provisions making farmers and ranchers more competitive, and needed assistance for rural development.

I know we have had disagreements over the time period in which we needed to get this farm bill moving. In the end, though, this is a good bill. It will do a lot for rural America that is hurting right now, a rural America that is hurting in large part due to the failure of our current farm policy. Now we need to take the final step and pass it.

Agriculture and the farm economy provide roughly $1.3 trillion to our economy and account for 24 million jobs. Rural America comprises 80 percent of our Nation's landmass and 20 percent of our population.

Our Nation literally cannot afford to leave rural America behind. Yet rural America is hurting as never before. Farmers have already seen prices drop every single year since the current farm bill was approved. They are getting roughly half the prices they were receiving in 1996. The record price drops farmers have seen in recent months and the warnings from USDA that farm income could drop another 20 percent add a level of urgency to this debate.

A recent study by the Bureau of Labor Statistics shows that farmers and ranchers are expected to lose 238,000 jobs over the next 10 years. That is more than any sector of the U.S. economy. That is nearly the population of St. Louis or Pittsburgh or Minneapolis.

We just cannot let that happen. Unless we pass this bill now and get a new law soon, USDA will not be able to implement it for this crop year. Instead, we would leave farm families to rely on a law so flawed that we have needed to grant emergency assistance for each of the last 4 years. Make no mistake, passage of this bill is essential for the survival of rural America.

This fall, I was in my State and met a ranch couple named Hight. When disaster struck on September 11, Don and Adeline Hight of Murdo sold 100 calves and donated the proceeds, about $40,000, to help victims of the attack. The manager of the local livestock association called their donation ''an act of true Americanism.''

Rural families have always sacrificed for our country. They have been facing a disaster now for years. With this bill, we have a chance to provide certainty to producers, fix our failed farm safety net, and help address the challenges we face in rural America.

I urge my colleagues to support this bill so we can move immediately to conference with the House and then present the bill to the President for his signature as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I understand the distinguished Senator from Maine would like to address us. I invite her to do that.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I am very pleased that legislation I authored has been included in the final version of the farm bill. The legislation, known as the Suburban and Community Forestry and Open Space Initiative Act, would help to combat the threat of suburban sprawl which has already consumed tens of thousands of acres of forest land in the southern part of my home State.

I very much appreciate the assistance of Senator LUGAR and Senator HARKIN, as well as Senators JACK REED and MIKE CRAPO, who have worked with me to put together this initiative.

Sprawl occurs because the economic value of forest or farmland cannot compete with the value of developed land. In my home State, the problem is particularly acute in southern Maine where over a 100-percent increase in urbanized land over the past two decades has resulted in Greater Portland being labeled as the ''sprawl capital of the Northeast.''

I am alarmed by the amount of working forest land and open space that has given way to strip malls and cul-du-sacs. Our State is trying hard to respond to this challenge. The people of Maine have approved a bond issue to preserve land through the Land for Maine's Future board, and they continue to use scarce local funds and contribute their time and money to preserve special lands and to support our State's 88 land trusts.

Of course, the problem of sprawl is not limited just to Maine or to the Northeast. Rapid, unmanageable growth affects many States and poses a significant threat to forest land across the United States.

The effects of sprawl were highlighted by a study conducted by the U.S. Forest Service last year. It examined forests in 13 southern States and found that 12 million acres of southern forest land could be lost to sprawl by the year 2020.

In Maine and elsewhere, communities are working hard to come up with new strategies to protect our working forests and to safeguard our communities from the effects of sprawl. I think it is time for the Federal Government to lend a hand to these efforts.

My legislation, which was drafted with the advice of landowners, conservation groups, and forestry experts, would establish a $50 million grant program within the Forest Service to support locally driven projects that preserve working forests. State and local governments as well as nonprofit organizations could compete for funds to purchase land or conservation easements to keep forest lands in their traditional uses.

The $50 million that would be authorized by my legislation would help achieve a number of stewardship objectives. First, it would help prevent forest fragmentation and preserve working forests, helping to maintain the supply of timber that fuels Maine's most significant industries. Second, the resources made available would be a valuable tool for communities that are struggling to properly manage growth and prevent sprawl. Currently, if a community were to turn to the Federal Government for assistance, none would be found.

My bill will change that by making the Federal Government an active partner in preserving forest land and managing sprawl, while leaving decisionmaking to States and communities.

Mr. President, by enacting this legislation, Congress will provide a much needed boost to local conservation initiatives and will help sustain the vitality of our natural-resource-based communities.

I ask unanimous consent that letters of endorsement from the Maine Nature Conservancy, the Maine Audubon Society, and the National Association of State Foresters be printed in the RECORD.

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

NATIONAL ASSOCIATION
OF STATE FORESTERS,
Washington, DC, December 5, 2002.

Hon. SUSAN M. COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the National Association of State Foresters, I would like to thank you for your efforts to reduce the impacts of urban and suburban sprawl on our nation's forest lands. Your proposed amendment, the Suburban and Community Forestry and Open Space Initiative, to Chairman Harkin's Farm Bill (S. 1731) demonstrates your commitment to minimizing conversion of suburban forest lands to non forest uses.

We support the overall concepts of the legislation. NASF does not currently have a position on whether easements or title to land purchased with federal funds should be expanded from state to non-profit entities. However, maintaining working forested lands in suburban environments is consistent with NASF's goals.

As the Southern Forest Resource Assessment recently released by the U.S. Forest Service clearly demonstrates, one of the major threats to forest land is urban sprawl.

The provisions in the Forestry Title of S. 1731 provide important tools to enable landowners to keep their land in trees and sustain the public benefits their forests provide. Your amendment is another tool to address this critical concern.

Thank you for your commitment to sustainable forest management and to reducing suburban sprawl.

Sincerely,

LARRY A. KOTCHMAN,
President.

MAINE AUDUBON SOCIETY,
Falmouth, ME, November 2, 2001.

Senator SUSAN COLLINS,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COLLINS: We are pleased to be able to offer our support of your proposed Suburban and Community Forestry and Open Space Initiative Act of 2001, which would expand opportunities for conserving forestland under the Cooperative Forestry Assistance program. This Act offers a new opportunity to protect some of the remaining actively managed forestlands that provide habitat for many of our native species, and encourages those lands to be managed sustainably, with input and use from the local community. This Act comes at a time when pressure to develop small woodlands in southern Maine is ever increasing, interest in conserving those woodlands is also increasing, but funds for forest conservation are still limited.

Southern and Coastal Maine has the highest level of woody plant and wildlife species diversity in the state. Unfortunately, this area is one of the most desirable for development and increasing development pressures are creating a checkerboard of non-contiguous habitat for wildlife. Although the overall population is relatively stable in southern Maine, residents of larger towns and cities are moving to surrounding rural communities, with residential development, both permanent and seasonal homes, spreading into large expresses of formerly agricultural and forested open space.

In its final report dated January 1996, the Maine Environmental Priorities Project (MEPP) concluded that ''patterns of development throughout southern and coastal Maine and in riparian zones statewide seriously threatened some species and some rare and critical habitats as well as the overall productivity of Maine's terrestrial ecosystems.'' Protecting forest land throughout southern Maine wildlife.

During the past two years Maine Audubon, in concert with several other state and federal agencies and nonprofit conservation organizations, has been conducting outreach to municipalities and land trusts to encourage the conservation of forestland, including large blocks of underveloped and unfragmented forestland that provide habitat for a wide variety of Maine's native plants and animals. We are providing local citizens with information about the high value habitats in their community, and many of those we have spoken with are intersted in acting to conserve forest land but have few choices for funding land protection. If the bill passes, we will be able to suggest a new source of funds for their hard work.

Thank you for taking the initiative to help conserve Maine's forest landscape and all the public benefits they provide amidst the threat of sprawl. We look forward to working with you on passage of the bill and on the subsequent rule-making which will speak out just have the bill would be implemented.

Sincerely,

SALLY STOCKWELL,
Director of Conservation.

THE TRUST FOR PUBLIC LAND,
Portland, ME, November 2, 2001.

Hon. SUSAN M. COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Trust for Public Land, I am pleased to express our support for the Suburban and Community Forestry and Open Space Initiative Act of 2001. This proposal will provide a much-needed focus on working forests that provide important resources in and around Maine's towns and cities that are facing significant development pressures. We applaud your foresight in addressing this issue.

As the Trust for Public Land pursues its mission of protecting land for people in Maine, we are acutely aware of the difficult choices many landowners face as land values rise and development pressures intensify. In addition, the forest lands that lie in the path of development are incredibly important to local residents for a variety of resources, including recreation, wildlife habitat, water quality and open space. Your legislation will allow these critical lands to remain intact as community assets by focusing federal assistance to landowners in areas affected by suburban sprawl. This is a much-needed addition to the resource conservation efforts that states, localities and non-governmental partners are already undertaking and will provide the extra funding leverage needed to successfully meet the challenges of the future.

Our work with willing sellers across the state leads us to believe that the Suburban and Community Forestry and Open Space Initiative Act of 2001 will make a difference in many Maine communities and will leave them in good shape for future generations. Maine's forest resources are absolutely critical to the quality of life that attracts residents and visitors alike, and proposals like this one will ensure that we address the conservation of those resources wisely.

Thank you for your leadership on this and many other issues affecting Maine. We look forward to working with you.

Sincerely,

JENNIFER MELVILLE,
Maine Field Office.

THE NATURE CONSERVANCY,
Brunswick, ME, November 2, 2001.

Hon. SUSAN COLLINS,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Trustees and 13,000 members of The Nature Conservancy of Maine, I am writing to you in support of your recently filed Suburban and Community Forestry and Open Space Initiative Act of 2001.

From the St. John project in Northern Maine to the Machias River downeast to Mt. Agamenticus in the South, the Nature Conservancy is working in partnership with local communities, the state, and federal governments to protect the best remaining natural place in our state. As population continues to increase in southern Maine, it is becoming increasingly clear that growth and development could overtake and destroy some of southern Maine's most outstanding forests and natural areas. Your legislation could play an important role in forever protecting these places. Two key sites, in particular, come to mind as projects that could benefit from Suburban and Community Forestry and Open Space Initiative funds:

Leavitt Plantation Project, Parsonsfield: Encompassing 8,600 contiguous acres, Leavitt Plantation represents the largest remaining block of forestland in one ownership south of Sebago Lake. Threatened by sprawl and development, this forest includes identified deer wintering and waterfowl/wading bird habitat, and populations of seventeen rare plants. The Leavitt Plantation Forest was to be cut up into as many as 13 parcels early last year. The land's fate as wildlife habitat, hunting and fishing grounds, hiking and snowmobiling destination, and as an economic resource for the region hung in the balance. Today, thanks to the cooperative approach of a forest investment company, a conservation group, the State, a small Maine town, area citizens and more, this land is slated to be protected forever. But additional funds are needed to complete the conservation of this project.

Mt. Agamenticus, York, South Berwick, Elliot, Wells, Ogunquit: Mt. Agamenticus, located in rapidly developing York County, is the largest block of unfragmented, undeveloped land near the coast between Baltimore and Portland. This vast area is rich in native plants and wildlife, and home to important and rare species. The forest also provides an economic boost to the region. Mt. Agamenticus is also one of the largest remaining recreational open spaces in southern coastal Maine, the area is popular with birders, hikers, bikers, and hunters, and a ''Mecca'' for mountain biking in New England and the area consistently draws visitors from all over the country to experience the mountain. In this rapidly growing area of southern Maine, large, vast areas of open space are becoming very scarce. The remaining forested lands of Mt. Agamenticus area are threatened by sprawl and development. However, if funded, a plan is in place to protect this area for the benefit of the citizens of Maine and future generations.

The Nature Conservancy supports your efforts to bring additional federal funds to projects like these in Southern Maine and throughout the state. Conservation of these great places requires a commitment from the private sector as well as from government, we appreciate your willingness to provide leadership on such a vital issue to the people of Maine.

Sincerely,

KENT WOMMACK,
Executive Director/Vice President.

FRIENDS OF ACADIA,
Bar Harbor, ME, October 16, 2001.

Hon. SUSAN M. COLLINS,
U.S. Senator, Russell Senate Office Building,
Washington, DC.

DEAR SUSAN: Friends of Acadia offers its full support for the anti-sprawl bill you have initiated. It will have utility across Maine.

Your proposal is of special interest in our region. It offers a real hope of dealing with the sprawl that is consuming so much of the Route 3 gateway landscape on the mainland just above Mount Desert Island and Acadia National Park.

Please let me know how we can help you advance this important legislation.

Thank you for your leadership.

Yours sincerely,

W. KENT OLSON,
President.

MAINE COAST HERITAGE TRUST,
Topsham ME, October 26, 2001.

Re Suburban and Community Forestry and Open Space Initiative Act of 2001.

Senator SUSAN M. COLLINS,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COLLINS: It is with great enthusiasm that I write to express Maine Coast Heritage Trust's support for your far-sighted Suburban and Community Forestry and Open Space Initiative.

Maine's rural and suburban lands are changing fast as more people move into Maine or move out of Maine's urban areas

and into the rural countryside. This pattern of development is altering the character of our state by diminishing both its traditional villages and surrounding open farms and forests. It also has a significant impact on local and state budgets as expensive new schools and roads are built to service these new neighborhoods.

Your initiative would provide important federal funds to be matched by state and private dollars. As you know, Maine voters showed their strong support for conserving open land when they overwhelmingly endorsed the $50 million Land for Maine's Future bond in 1999. Furthermore, the success of Maine's 88 land trusts (perhaps the highest number of trusts per capita in the nation) is a testament to Mainers' commitment to maintaining the rural character of the state. Your proposal would help leverage hard-won public and private dollars.

I was particularly pleased to learn that your proposal would complement the Forest Legacy Program. Forest Legacy has been a critically important source of federal funds for conserving large tracts of Maine's northwoods. Its continuation is vital.

Thank you ever so much for your creative leadership and hard work on behalf of land conservation efforts in Maine and across America.

Sincerely,

JAMES J. ESPY,
President.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of H.R. 2646, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2646) to provide for the continuation of agricultural programs through fiscal year 2011.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 1731, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill was to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. LUGAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Utah (Mr. BENNETT) are necessarily absent.

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

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—58

Akaka	Durbin	Miller
Allen	Edwards	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Fitzgerald	Reed
Bingaman	Graham	Reid
Boxer	Grassley	Rockefeller
Breaux	Harkin	Sarbanes
Byrd	Hollings	Schumer
Cantwell	Inouye	Sessions
Carnahan	Jeffords	Shelby
Carper	Johnson	Snowe
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Collins	Kohl	Torricelli
Conrad	Landrieu	Warner
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden
Dodd	Lieberman	
Dorgan	Mikulski	

NAYS—40

Allard	Frist	McConnell
Bond	Gramm	Murkowski
Brownback	Gregg	Nickles
Bunning	Hagel	Roberts
Burns	Hatch	Santorum
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cochran	Hutchison	Stevens
Corzine	Inhofe	Thomas
Craig	Kyl	Thompson
Crapo	Lincoln	Thurmond
DeWine	Lott	Voinovich
Ensign	Lugar	
Enzi	McCain	

NOT VOTING—2

Bennett	Domenici

The bill (H.R. 2646) was passed.

[The bill will appear in a future edition of the RECORD.]

Mr. LUGAR. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House on the disagreeing votes of the two Houses.

The majority leader.

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I ask unanimous consent that there be a period for morning business until 2:30 p.m. today, with 60 minutes under the control of Senator BYRD and the remaining time controlled equally between Senators BROWNBACK and TORRICELLI or their designees, and that at 2:30 p.m. today the Senate begin consideration of Calendar No. 239, S. 565, the election reform bill.

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

The Senator from New Jersey.

CAMPAIGN FINANCE REFORM

Mr. TORRICELLI. Mr. President, the Congress may now be closer to comprehensive campaign finance reform than at any time in 30 years. It holds the promise of restoring public confidence by reducing the amount of money flowing into American politics while simultaneously reducing the costs of campaigns themselves. It gives a fair chance to challengers, an opportunity for people to bring different ideas and a broader national debate because we end the dominance of special interests money.

This can be an extraordinary, even historic week in the life of the Congress. But the well-crafted balance reached in the Senate is now in jeopardy. Campaign finance reform has meant a change in various institutions within our political culture. One of those institutions is resisting the change. I am speaking of the network broadcast industry. Just as political candidates would be challenged under the law to raise less money under stricter limits, and the political parties would operate under different rules, and the American people would operate under more restrictions to assure that money did not dominate the process, the broadcast industry, operating under Federal license in the use of the public airways, would be challenged to reduce the costs of advertising for Federal campaigns.

The Congress could have insisted on free air time. We could have insisted that time be made available for public debate as in many of the great democracies of Western Europe. Our request was much more modest. Indeed, our request was to put into law that which we believe we had done 30 years ago anyway. In 1971, Congress required that the networks provide advertising rates at the lowest unit rate. Through evasion, by finding loopholes in the law, the television networks have evaded their responsibility under the law.

Senators CORZINE, DURBIN, ENZI, and many of my colleagues offered an amendment on the floor of the Senate, adopted 69 to 31, on a bipartisan basis, requiring once again that the networks provide television advertising at the lowest unit rate in the period immediately before a primary and general election. We did this because a 1990 audit by the FCC found that 80 percent of network television affiliates were failing to make time available as required by law at the lowest unit rate, meaning that a typical candidate ad sold for 65 percent more than what should have been charged—65 percent higher costs than should have been required had the law been followed.

If in this debate on campaign finance reform we lower the amount of money raised without lowering the costs of the campaigns themselves, we will have achieved very little. The best funded incumbents will always find the resources to advertise. The question is, What about those candidates for Federal office who do not represent popular ideas or powerful interests? And what of the challengers who would challenge the status quo, represent new ideas or sometimes unpopular ideas? They will never have the resources to enter into the national political debate.

The goal of campaign finance reform is not to lessen the national debate. It is not to bring less political discussion to the country. It is to have a more vibrant debate, of more varied ideas, less

represented by the requirement of political fundraising.

If, indeed, the national broadcasters, represented by millions of dollars' worth of lobbying—and, ironically, the use of their own political contributions—succeed in removing this provision from campaign finance reform, not only have we achieved very little but we add a new distortion to the national political debate.

In the New York metropolitan area, it is not uncommon to charge $30,000, $40,000, and $50,000 for a 30-second ad. How will these ads be purchased? This applies in Chicago or Los Angeles or Miami or Boston. We have eliminated soft money; we are adding restrictions to reduce the amount of money. The simple truth is, most candidates will not be able to afford them at all.

The costs have not stopped rising. Since 1996, the cost of political advertising in some jurisdictions has increased another 30 percent, and it will keep rising as candidates compete not with each other for time but with General Motors or Ford or General Foods or Procter & Gamble.

What have we done to our political system when candidates have to raise money in obscene amounts, from hundreds of thousands of Americans, to buy the public air time on federally licensed stations, air time that belongs to the American people, in order to communicate in the middle of a Federal campaign public policy issues? There is no other Western democracy that has such a system because no one else would tolerate it—and neither should we.

How is it that American politics has deteriorated into this endless spiral of campaign finance, where candidates should be spending their time thinking of new ideas, challenging each other for the Nation's future, where Members of Congress should spend their time legislating, spend time with the American people who have problems—not just the American people who have money?

How did we get here? How did it happen? It is not by chance. In the average Senate campaign, 85 percent of the money raised is going to the television networks. Every year, it is a larger percentage; every year, a higher bill. Yet the broadcasters are arguing that this is unconstitutional—we are taking their property.

For 30 years there has been a requirement that they make the lowest unit rate available. If it was constitutional then, it is constitutional now. They just evaded the law. Every one of them, when they got a Federal license to broadcast, agreed to comply with Federal law and to serve a public purpose. This is no taking. They still will be able to charge exorbitant fees, just the same fees they are charging other corporate customers at different times of the year. We have a right to do it. There is a precedent to do it. And it is fair to put these restrictions on broadcasters.

Second, they say this will lead to perpetual campaigns, reducing the cost of advertising so there is nothing but campaigns, year to year, year after year, all year. The legislation passed by the Senate only makes the lowest unit rate available 45 days before a primary and 60 days before a general election. There are no perpetual campaigns. The time limits are actually quite strict.

Then the broadcasters argue that this is such an onerous burden that they can financially not survive, they can't deal with the cost of making the lowest unit rate available. They are charging political candidates $1 billion to advertise. It is estimated that this will be a reduction of $250 million. I believe the networks, still collecting three-quarters of a billion dollars in political advertising, are doing quite well by this system.

Indeed, the reduction from making the lowest unit rate available would equal less than 1 percent of the $41 billion in ad revenue. If every other segment of our society can deal with change in order to restore integrity in this political process—the political parties forego soft money, Federal candidates eliminate soft money, the American people live with these restrictions, American business accepts these restrictions—can the broadcasters themselves under Federal license, challenged to use the airwaves for the public good, not accept a 1-percent reduction in ad revenue?

It is an extraordinary irony that the media, having rightfully challenged the Congress to change the political fundraising system, having put so much scrutiny on campaign fundraising, has played a vital role in bringing us to this historic moment. But what an irony. While the network anchors rail against the campaign finance system, challenging the Congress to change it, their corporate executives pay millions of dollars in lobbying fees, as we speak, to lobbyists who line the Halls of the House of Representatives, and PAC directors who use the leverage of their political contributions to attempt to intimidate the Congress into eliminating them from this process of change.

I hope this provision of campaign finance reform remains intact. But, if it fails, this Senate will face a difficult moment: The specter of a new campaign finance system in which the amount of money raised will be dramatically reduced, but the cost of the campaigns themselves will continue to dramatically rise.

I recognize that most Members of this Senate can adjust to the new system. Powerful incumbents will find the means to raise the money. But what of the young man or woman who has different ideas, one who represents no powerful interests, who may not live in a State of great wealth or come from a wealthy family? They, too, would like to serve in the Senate. They, too, have contributions to make to our political system. They, too, believe in our country. There is a chance that by the reforms that we passed they will be silenced; for who among them, in raising campaigns funded only by hard money, with access to no other resources, can pay their share of the $1 billion in advertising costs that are the modern equivalent of a gold soap box that the Founding Fathers would have had as a restriction to the exercise of free speech?

What free speech is there, what kind of open political system do we have, if the only means of running for public office is purchasing the gold soap box of our time, a $1 billion price of entry to the network television affiliates? Indeed, that is no free speech at all. That is not an open, competitive political process.

So the next great hurdle of campaign finance reform is now. Do we hold firm, those 69 of us on a bipartisan basis who insisted that as fundraising is controlled, so, too, must be the costs?

I ask my colleagues to remain committed, not for themselves or their interests but for those who would follow us and for those who believe this political system is open and fair to all those who wish to serve their country in the years to come.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MILLER). Without objection, it is so ordered. The Chair recognizes the Senator from West Virginia.

WAR ON TERRORISM

Mr. BYRD. Mr. President, in his State of the Union address on January 29, President Bush reminded the nation, at great length and in great detail, that we are a nation at war, and that we will stop at nothing to rid the world of terrorism.

His words were stirring, his message sweeping.

The war on terror, he said, has only begun:

> Tens of thousands of trained terrorists are still at large. These enemies view the entire world as a battlefield, and we must pursue them wherever they are.

Strong words—strong words indeed.

The President outlined an ambitious agenda for the war against terrorism: first, to shut down terrorist camps, disrupt terrorist plans, and bring terrorists to justice. Second, to prevent terrorists and regimes that seek chemical, biological or nuclear weapons from threatening the United States or the world. The President singled out three such regimes—Iran, Iraq, and North Korea—describing them as an ''axis of evil'' that is posing a grave and growing danger to the world.

The President's speech laid out a sweeping plan for the U.S. response to

global terrorism. It is a manifesto that he has stated many times to many different audiences in the days following that address. At Eglin Air Force Base in Florida last week—Feb. 4—the President told cheering troops that ''We're absolutely resolved to find terrorists where they hide and to root them out one by one. . . . History has called us into action, and we will not stop until the threat of global terrorism has been destroyed.'' Strong words—strong words, indeed.

Less there be any doubt as to where I stand, I have been a hawk on defense issues for all of my 50 years in Congress.

When I came to Congress 50 years ago this year, I was strongly opposed to the entry of Red China into the United Nations. I supported the war in Vietnam and the budgetary requests that President Johnson made. I supported down to the last penny his budgetary requests for defense.

When I came to this body 44 years ago, I went on the Appropriations Committee at the beginning of my service in this body, and I have been on the Appropriations Committee 44 years this year.

I spoke highly of President Bush last Friday in my reference to his speech at the National Prayer Breakfast. His expressions concerning faith I complimented on the floor.

But when it comes to national defense, let nobody have any doubts as to where I stand. I was supporting national defense and appropriations for national defense in Congress when our President, Mr. Bush, was in knee pants. On two committees, I served with the late Senator Richard Russell of Georgia. He was chairman of the Armed Services Committee. He was chairman of the Appropriations Committee. He held both positions—not at the same time but at different times when I was on his committees. I was on the Appropriations Committee and I was on the Armed Services Committee. I supported Senator Stennis of Mississippi, who was one of the giants of the Senate. So I need no one to stand beside me and bear witness to my support for national defense.

During the war in Vietnam, I was majority whip in the Senate during part of the war. I was also secretary of the Democratic Conference during part of that war. There was pretty much solid, undivided support almost at first. Then there developed a divisiveness among Senators on the war in Vietnam.

The late Senator Mike Mansfield was majority leader of the Senate. I became his assistant in 1967 as secretary of the Democratic Conference. I sat on this floor practically every hour of every day and was always at Mike Mansfield's elbow. Then I became the whip. I carried out his wishes on this floor and watched the floor, worked the floor, learned the rules, and Mr. Mansfield pretty much left the floor work to me as his whip.

There came a time in that war when the Vietcong were striking at American soldiers from across the Cambodian and South Vietnamese border. I offered an amendment during a debate in which the late Senator Church, the late Senator Cooper on the other side of the aisle, and others were joined on the matter. I offered an amendment expressing support for the President, who at that time was Richard Nixon, in his efforts to bomb the Vietcong who were, as I say, working from enclaves in Cambodia across the border from South Vietnam.

The Vietcong would go across the border and kill American soldiers. I offered an amendment during that debate, in essence, saying that the President of the United States has a duty to do whatever it takes to protect American boys, who perhaps didn't ask to go to a foreign battlefield. But they were sent into battle and a President has a responsibility to do whatever it takes to protect those men from attack. So I offered that amendment and it was defeated. I lost on the amendment.

I need no one to attest to my credentials when it comes to supporting defense, particularly from an appropriations standpoint—my having been on that committee now for 44 years, as I say, this year.

I have been a hawk on defense issues for all of my 50 years in Congress.

I fully support the President's resolve to strike back at the terrorists who caused such devastation, destruction, and carnage here in our country on September 11, 5 months and 2 days ago today. But I also understand, having lived through several wars and studied the history of many more, that war cannot be fought or won by rhetoric, that true victory is tangible victory, that words do have meaning, that words do have consequences, and that a rhetorical declaration of global war may well precipitate real global conflict, involving horrific loss of life.

It is crucial that we all realize that the war on terrorism is not just a war of hot words. This war, like any war, must have tangible and achievable goals and objectives. There must be benchmarks by which to measure progress in attaining those objectives. And the American people must clearly understand what sacrifices must be made and what constitutes victory. These essential elements must be more clearly defined than they have been thus far. We cannot be left to guess as to what is meant.

I had the opportunity to discuss the war on terror with Defense Secretary Rumsfeld a few days ago when he appeared before the Senate Armed Services Committee. I think it was on February 5. The Secretary appeared before the Committee to explain and defend the President's $379 billion defense budget request for Fiscal Year 2003.

Socrates would say, ''Define your Terms.'' I asked Secretary Rumsfeld to define the parameters of our war on terrorism. What are our goals? What are our objectives? What are the standards by which we should measure success in this war? How will we know when we do achieve victory?

Much has been said about bringing terrorists to justice. We have bombed the Afghanistan mountains into rubble. We have struck deeply at the caves. We have already spent $7 billion in Afghanistan. Where is Osama bin Laden? How will we know when we do achieve victory?

Secretary Rumsfeld is an outstanding Secretary of Defense. I have seen a good many Secretaries of Defense in my time here, and I have a great respect for Secretary Rumsfeld. He has been around a long time, too. I have watched and listened to many of Secretary Rumsfeld's briefings on the war in Afghanistan, and he has impressed me. He is candid, straightforward, and to the point. If he cannot answer a question, generally he says he cannot answer the question.

Unfortunately, Secretary Rumsfeld could not answer my questions, although he certainly was candid. I think he basically told the committee that it is difficult to say how we will know when we have won the war on terrorism.

Although he has said the war on terror has just begun, President Bush has also said on numerous occasions that we are winning the war in Afghanistan. Perhaps it was to our good fortune that there was, one might say, a ready-made military force on the ground there opposing the Taliban.

The President is correct, if winning means routing the Taliban from the Government of Afghanistan. But if winning this war means destroying the al-Qaida terrorist network, or if winning means bringing to justice Osama bin Laden, and Mullah Omar, and the rest of the al-Qaida leadership, then we may have jumped the gun in such expressions. By those standards—standards the President himself has set—we still have a way to go in Afghanistan. In fact, many of the former Taliban forces are still in that country. They have simply switched sides for now. Should circumstances change, they may very well switch back again. Those are the realities of Afghanistan.

The President said in his State of the Union Address: ''I will not wait on events, while dangers gather. I will not stand by, as peril draws closer and closer. The United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons.''

Mr. President, facts matter. Standards matter. Words matter. Words have consequences. When the President described Iran, Iraq, and North Korea as an ''axis of evil,'' and pledged that the United States will not permit those nations to threaten the world with weapons of mass destruction his florid words were cause for alarm to many of our allies. What did the President mean? Was he signaling a plan to attack one or more of these three nations?

I asked Secretary Powell that question during his appearance yesterday before the committee. Secretary Powell answered: There is no plan.

He was very careful in the way he responded to my questions. He said: There is no plan. There is no such recommendation on the President's desk today.

I will put the entire transcript of Secretary Powell's responses, and my questions, in the RECORD at the close of my remarks. But what did the President mean? Was he signaling a plan to attack one or more of these three nations?

Secretary Powell, as I said, was very careful in his responses. Secretary Powell has been around a long time. I remember working with then-National Security Adviser Colin Powell when I was majority leader of the Senate in 1987, 1988.

I remember the INF Treaty, I withstood great pressure from the then-Reagan administration, to bring up that INF Treaty. I withstood that pressure and said: I will not be stampeded into calling up the INF Treaty until we have answers to our questions, until Sam Nunn, who is chairman of the Armed Services Committee, has answers to his questions about futuristic weapons and other very key and important questions. I just will not bring up this treaty. Say what you will, I will not bring it up.

I remember quoting the words from, I believe it was Scott's ''The Lady of the Lake'':

> Come one, come all! this rock shall fly
> From its firm base as soon as I.

I said: I will not call up this treaty until we have the answers to Sam Nunn's questions, not until we have the answers to David Boren's questions—David Boren was chairman of the Intelligence Committee—not until we have the answers to the questions of Senator Pell. He was chairman of the Foreign Relations Committee.

I said: We have to have these answers before I will call this treaty up. And I did not call it up until we had the answers.

At that time, Colin Powell was National Security Adviser. He scampered across the ocean to Europe to help get those answers. Colin Powell, as I say, at that time, who was the National Security Adviser, complimented the Senate, and complimented me as leader at that time of the Senate, the majority leader, on staying the course, on standing our ground against being pushed into a premature consideration of that INF Treaty. Mr. Powell, himself, said, the Senate rendered a service. And he complimented me personally.

I have had a long experience here with Mr. Colin Powell. He is now Secretary of State, and I have a great deal of confidence in him. He has had the experience. He was a soldier for 35 years, National Security Adviser, Chairman of the Joint Chiefs. He has led men into battle. He has made command decisions. Here is not a man who blew in by the winds from a cyclone that came from far away. He has been around here a long time. He has the experience that gives him the independence of thought.

Secretary Powell was very careful as to how he answered my questions, leaving me to believe that, indeed, the administration is certainly considering, as an option—this is a conclusion I have drawn from what he said and from what newspaper stories have reported—the administration, indeed, has under consideration, as an option—this is my reading, but it would be pretty hard, I think, for others not to reach the same conclusion—that the administration is, indeed, considering, as one of its options in dealing with Iraq and Iran, maybe North Korea—certainly as an option—an attack upon one or more of these states. That is a conclusion I have drawn.

As I said to Secretary of State Powell, does the President have some new evidence of complicity in the September 11 attacks by these three nations? Those are very strong words. The President seems to be saying that we will attack any nation we consider to be a threat. Perhaps I am reading something into the matter that is not there.

The question is, How do we back up that message if Iran, Iraq, and North Korea do not change their behavior? Does the President intend to invade or strike one or more of these nations? Why has he included North Korea in that list? It is certainly not clear to me that North Korea was in any way involved in the September 11 attacks on our Nation. Perhaps I am overlooking something.

A Nation's leaders have a responsibility to think beyond the stirring rhetoric of war, particularly in the case of what could be a long, costly, global conflict which could very well unleash forces most of us only dimly understand and which could cause great loss of life. This Nation's leaders also have a responsibility to obtain the support of the people's elected representatives in Congress before undertaking endeavors which may claim the lives of the Nation's sons and daughters.

The U.S. Constitution. I have a copy of it in my pocket—a copy of the U.S. Constitution. May I say to the distinguished Senator who today sits in the chair and presides over this deliberative body with dignity and skill, may I say that his two representatives from the State of Georgia who signed this Constitution were William Few and Abraham Baldwin. This Constitution still lives. That is the mast which will hold us always to the ship of state—the Constitution.

I hope this administration remembers that there is still a Constitution. I hope that we in this body still remember there is a Constitution to guide us.

This Constitution does not mention ''consultations'' with Congress. This Constitution does not reference the United Nations and what the United Nations may want or not want. But this Constitution, in section 8 of article I, says that Congress shall have the power to declare war, to raise and support armies, to provide and maintain a navy, and so on. So let us in this body remember that there is still a Constitution. It has served us well, and it will always serve us well.

I am going to follow that Constitution as closely and as nearly as I can follow it in the days to come; in perilous times, if they come. I will support a Commander in Chief when I think he is right. I will not support any Commander in Chief, be he Democrat or Republican, if I think he is making a mistake in such a very serious matter.

The U.S. Constitution declares the President to be the Commander in Chief. But see what the Constitution says about the Commander in Chief. One can almost count the sentences that are enumerated in this Constitution with reference to the Commander in Chief's powers as the number of fingers on one's hand. But there are many sentences, one will find enumerated in this Constitution, with respect to the Congress—many sentences. Let us keep an eye on this Constitution.

The President would do well to obtain the support of the people's elected representatives in Congress before undertaking endeavors which may claim the lives of our Nation's sons and daughters. The Constitution declares the President to be the Commander in Chief, but it is Congress that has the constitutional authority to raise and support armies, to provide and maintain a navy, and to declare war.

It is no accident that the Constitution, in assigning these powers to Congress, includes both the common defense and the general welfare of the Nation on this list. The structure, the scope, and the cost of the Nation's defense have an enormous impact on the general welfare of the people. It is Congress, and specifically the Appropriations Committees of the Congress, that has the responsibility for appropriating the money to fight the war on terrorism.

The President has said that this war is costing American taxpayers over $1 billion a month. We have already spent over $7 billion waging war in Afghanistan. The President's 2003 defense budget amounts to an expenditure of $379 billion, over $1 billion a day. The President is forecasting continued increases in the defense budget.

I will insert into the RECORD the amounts that are being considered and questioned by the administration over the next 10 years for national defense, and the total over that period, I think we will find, will be nearly $5 trillion.

That is serious money. It is made more serious by the fact that we are returning to budget deficits. We are borrowing to support this huge defense budget, and that means we are paying interest on that money that is borrowed, interest on that debt.

How long—we have heard that phrase before—how long, how long can this Nation afford to spend $1 billion a day? We will find that that $1 billion a day will increase substantially over the next 10 years—more than $1 billion a day on defense.

Exactly what level of national security are we buying with that investment of money? What nondefense needs are we forfeiting? As President Bush said in a 1999 speech at the Citadel:

> We must be selective in the use of our military, precisely because America has other great responsibilities that cannot be slighted or compromised.

I agree with every word of that statement by now-President Bush.

We must not allow a bloated defense budget to eat away at our ability to fund other important priorities such as Social Security, Medicare, health care, and education, to name just a few priorities.

Clearly, the budget that was presented to Congress on February 4 sacrifices a great deal for defense. While domestic discretionary spending increases by only 2 percent, and is essentially flat in some areas, the President has asked for an additional $48 billion in military spending, 15 percent above last year's defense budget, which was itself 10 percent above the previous funding level for 2001. The size of the requested increase alone is greater than the military spending of many, if not all, of our NATO allies.

Moreover, such a colossal defense budget increase must be justified. It must be approved by Congress. Both Congress and the American people must understand how this money is to be spent and whether it will really enhance our national security.

Let me repeat: Look, again, at my record of support for appropriations for national defense over a period of 50 years. There is no equivocation in that record.

Congress must also understand much, much more about the proposed $10 billion defense reserve fund that is in this budget, including the plans for its use.

The President's huge defense budget does make minimal cuts in a few outdated weapons systems, but it also increases spending on the big-ticket ships and airplanes that account for a good portion of the U.S. defense procurement funds. Do these types of weapons fit into a national security strategy in today's world, where asymmetrical warfare and the existence of terrorist cells in more than 60 countries, including the United States, seem to constitute the most serious threat to our national security? Are these big-ticket items that we are purchasing moving us toward a 21st century military, or are they squandering tax dollars by continuing a cold war military structure?

May I remind ourselves that there has been on the books a law which requires appointments and agencies to audit and to be able to come up with clear audits of their expenses. The Constitution itself requires a clear accounting of the moneys that are appropriated by Congress. I believe it was last year that I raised this question with Secretary of Defense Rumsfeld. The Defense Department could not identify $3.5 trillion in its more than $7.6 trillion in defense accounts—in accounting entries. Now, if the Defense Department cannot, after a law's having been passed and put on the books requiring Departments to be able to come up with audits, if the Defense Department cannot account for $3.5 trillion in its accounts—it doesn't know what the weapons are, what is on hand, what spare parts are on hand, what spare parts it really needs, what moneys have and have not been spent—how can the American people have confidence enough to support an additional $48 billion for defense this year? Who can account for this money? How are we going to account for it? Where are we going? And we are denying other needs. The President said in his speech to the Citadel some time ago that we must not overlook other very important priorities. How can we do it? Where are we going with all of these expenses?

Are these big-ticket weapons we are purchasing moving us toward a 21st century military, or are we squandering taxpayers' dollars by continuing a cold war military structure? Are these weapons the best ones with which to wage a global war on terrorism, or are they intended to attack the ''axis of evil,'' as the President called Iran, Iraq, and North Korea? Could they be meant to counter the threat of a rising world power such as China? How about China?

No one has explained. These are critical questions for which we have yet to hear clear, concise answers. Congress needs to be given those answers. The American defense budget should not be a cookie jar with goodies for every defense contractor lucky enough to afford a hefty lobbying budget. This Nation is again in deficit status, and we have to guard against committing huge sums for weapons that are not needed, which will only drive us deeper into debt and sap our overall economic strength.

The patriotism that runs deep in the veins of Americans, and the horrors of September 11, have aroused our emotions and galvanized our support for the fight against terror. But that support could wane, both at home and abroad, if the administration does not carefully weigh its use of broad threats, undefined objectives, and the murky consequences of shackling both our domestic and foreign policies to a militaristic fervor which may or may not reflect realistic possibilities or sound choices.

We would do far better to hear clear explanations of our goals in the war on terrorism, and detailed justifications of our defense budget that use cold logic, rather than a hot head. We are a powerful country. There has never been one so powerful. We cannot hope to eliminate terrorism from the world without other nations on our side. A recognition of our limitations in that regard is critical. We are a rich country—so rich that if the Queen of Sheba were today alive, she would come to this country and forget about Solomon in all of his glory. We are a rich country, but we can never, never spend our way into perfect national security—I say perfect national security. Our resources are finite and choices have to be made, and there will always be forces and circumstances in the world that are unpredictable and beyond our control. There always have been and always will be. But we can strive to be a wise nation—one that avoids bombast in favor of methodical analysis, one that understands its extraordinary possibilities as well as its very real limitations on the global stage.

I do not know what these words by President Bush may portend for our future. Are they meant to convey the chilling possibility that Mr. Bush may be contemplating an invasion of Iraq, or Iran, or North Korea? I don't know. Just looking at the words themselves, I cannot understand. Are they meant to be the harbinger of an attack on one or more of these nations? When Secretary Powell testified before the Budget Committee yesterday, he could only give weak assurances that the President ''has no plan on his desk'' to start a war with one of these countries. It has yet to be seen whether the President's strong words will mean some future action against Iran, Iraq, or North Korea, or whether they are just considered as a rhetorical flourish to a wartime speech.

What is for certain is that other countries have reacted to the use of bellicose terms.

Our European allies are now wondering if the United States will soon call upon them to support military action against one of those three countries.

Hasn't Russian leader Putin raised a question, has he not expressed concern about our intentions toward Iraq? Only yesterday I believe, or the day before, I read in the newspaper about his cautionary words. Russia has issued a strong warning against a possible U.S. attack on Iraq. Alliances between nations can be fractured and broken because of rash or insulting statements.

Iranians who voted for moderate candidates in last year's elections joined with hardliners in taking to the streets of Tehran on Monday, February 11, to protest the categorization of their country as ''evil.''

I read from the New York Times of the day before yesterday:

> Millions of Iranians galvanized by President Bush's branding of their nation as part of an ''axis of evil'' marched in a nationwide pep rally today that harkened back to the early days of the Islamic revolution, with the American flag burned for the first time in recent memory.

The story goes on to say:

Ever since Mr. Bush designated Iran part of an international terrorist network open to American attack, conservatives in Iran have been greatly buoyed, trying to use a resurgence of disgust with America to quash reform at home, daily denouncing Washington and exhorting Iranians to follow suit. This has made it difficult for President Khatami to preserve his reformist agenda of promoting democracy and rooting out corruption an agenda he emphasized today before he, too, criticized American foreign policy.

I ask unanimous consent that this article in its entirety be printed in the CONGRESSIONAL RECORD at the close of my remarks.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Madam President, I also ask unanimous consent that at the close of my remarks there be printed a transcript of the questions that I asked of Secretary Colin Powell and his answers when he appeared before the Senate Budget Committee.

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

(See exhibit 2.)

Mr. SCHUMER. Madam President, will my friend from West Virginia yield for a question?

Mr. BYRD. Yes, I yield to the distinguished senior Senator from New York.

Mr. SCHUMER. Madam President, I thank my colleague. Before I ask my question, I wish to thank the Senator from West Virginia for taking to the floor on such an important and timely issue because we are in a grave new world.

No one can doubt the Senator's fidelity as a patriot and somebody who cares about a strong America, an America that defends itself. I followed his career long before I ever came to the Congress in 1980. It was true then and it is every bit as true, even more true today.

Mr. BYRD. I thank the Senator.

Mr. SCHUMER. Only he could give such a speech with the strength that is needed. I wish to ask the Senator a question, given his knowledge of the Constitution and our history.

Senator BYRD has focused on two issues: the ability to declare war and the ability to spend funds in execution of that war. It is my understanding that if there were ever a part where the Founding Fathers wanted the checks and balances of our system—the consultation of the executive branch with the Congress, the legislative branch—it would be in these two areas.

I wonder if the Senator might address that issue briefly because I think it ties his knowledge of history with the very appropriate and apt words of today.

Mr. BYRD. I thank my friend, the senior Senator from New York, whose State experienced the greatest sacrifice in blood and human lives that has ever been brought to this country by terrorists in its entire history, brought in 1 day in the course of a few hours, and is still suffering from the losses that were visited upon New York City by these men who, indeed, were evil men.

The Founding Fathers were very suspicious of a strong Executive. The Framers of our Constitution were not strong devotees of ''democracy.'' They believed in a strong legislative branch. They believed in checks upon an Executive. And so they were rather sparse in the language that they used when it came to enumerating the powers of the Chief Executive, the Chief Magistrate of the country.

Some of the Framers had a concern that a legislature might impinge upon the powers of a Chief Executive; that the vortex of the legislative branch was ever seeking more power. I think in these regards, the Founding Fathers would find that their concerns about a Chief Executive were perhaps well-founded, especially in time of war.

In a time of war, powers and authorities seem to gravitate toward the Chief Magistrate as Commander in Chief. They felt that they had adequately protected against that by virtue of the many powers that are enumerated in the Constitution and vested in the Congress, the most powerful of which, the most important of which is the power of the purse which we find vested in the Congress. We find it in section 9 of the first article of the Constitution.

Yes, they were concerned about an overweening Executive, so they included adequate safeguards. They vested this power to send the Nation's sons and daughters into war in the hands of Congress when they said, in section 8, the Congress shall have the power ''To declare war.''

This was a safeguard that the Framers wisely put into the hands of the elected representatives in the people's branch—that first branch, mentioned in the very first sentence of the Constitution. There is where the power to make law resides. These are people who are directly elected by the people.

The Framers were not at all enamored with the idea of having an all-powerful Chief Executive.

Mr. SCHUMER. I thank the Senator. His speech, which I have heard thus far, is a marvelous one. I commend it to my colleagues and will read the rest of it myself. I apologize; I must go chair a hearing, but it is one of the reasons I am glad to be in the Senate, to hear brave and important words such as these. I thank the Senator and yield back to him.

Mr. BYRD. I thank the distinguished Senator from New York, Mr. SCHUMER, for his words and his confidence. I thank him also for his reference to the Constitution.

We need to retire into the inner sanctums of our minds and ponder the Constitution every once in awhile.

I also ask unanimous consent that a chart regarding defense budget expenditures be printed in the RECORD at the close of my remarks.

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

(See exhibit 3).

Mr. BYRD. How lately have we read the Constitution?

When we send a signal to the rest of the world, we should pay more attention to the content of our message than to creating a sound bite. It seems that a new front has opened in our public relations war against terrorism, and the world wants to know what kind of action we may be contemplating to back up those words.

I am reminded of the words of Gaius Sallustius Crispus. Gaius Sallustius Crispus was a Roman historian. He lived between the years 86 and 34 B.C. If one wants to read a good account of the Catilinian conspiracy, one ought to read Sallustius' account of the conspiracy of Catiline. One ought to read Sallustius' account of the Jugurthine War which occurred perhaps between the years 112 and 106 B.C. It was Sallustius Crispus who said, ''It is always easy to begin a war but very difficult to stop one, since its beginning and end are not under the control of the same man.''

The country is behind the President's efforts thus far to trace the whereabouts and to bring to justice—to use Mr. Bush's words—Osama bin Laden and other terrorist leaders. But if, indeed, the President is contemplating an attack on a sovereign nation, the President should contemplate seeking a declaration of war by Congress in advance. I may very well vote for such a declaration, depending upon the circumstances at the time. I would not rule that out.

As Edmund Burke so well stated, ''War never leaves where it found a nation.''

The President would be well advised to have the people of the Nation, acting through their elected representatives in Congress, behind him in the event that he seriously contemplates an attack on any one or more of the nations which he included in his ''axis of evil'' about which he spoke during his State of the Union Address.

Going to war with Iraq or North Korea would be a very—and the same can be said with reference to Iran—serious undertaking. Given the right cause, I would say let's go. Given the right cause and the right circumstances, yes, but let us be cautious and prudent.

North Korea is estimated to have the fourth largest military in the world. Iraq has had 11 years since the Gulf War to rebuild what was once touted as the world's third largest military. Going to war against well-armed foes such as these will require the serious and sustained support of the American people.

The President should not misinterpret the support which he enjoys in poll after poll throughout the Nation to mean that he can throw the weight of the Nation's full military power at any one of these three nations and expect this Nation and its elected representatives to follow down that road

without their elected representatives also having had an opportunity to pass some judgments in committing the Nation's blood and the Nation's treasure to the task. In the words of Aeschylus, ''the people's voice is a mighty power.''

All of us have supported the President in his actions thus far, but there are some things that are worthy of pause. I do not offer my words today in criticism. I merely offer my words as cautionary.

I have heard much saber rattling, much jingoism. It is one thing to track down terrorists, to chase them into the holes and caves, and to vow they shall not hide and we will ''get 'em.'' It is quite another to consider going to war—if that indeed is being weighed as an option in high places—without a declaration of war by Congress, as set forth in the Constitution.

Let me say again, I will leave no doubt about it, I am not saying that a declaration of war on a certain nation at a given time cannot be justified. As to Iraq, for example, there may arguably be a sufficient justification to make a solid case, given our past experiences with that country and the leader of that country. I might very well be one Senator who would support such a declaration at a given time, based upon compelling facts. But as someone once said, ''A wise man should try everything before resorting to arms.''

There is an old English proverb that says, ''He that preaches war is the devil's chaplain.'' I do not believe that there is any such thing as an inevitable war. Given the history of our relations with Saddam Hussein, it may be that such a conflict one day must take place or shall take place. Our military might is overwhelming, but as Cicero is reported to have said, ''An Army is of little value in the field unless there are wise counsels at home.'' Then, let us have wise counsels, not just consultations. Cato the Elder used to close every speech, every letter, with the words, ''Carthage must be destroyed!'' Eventually, in the year 146 B.C., Carthage was destroyed. There must be careful counsels, and let us vote when the time comes.

I hope and pray that the President will think and pray carefully as all options are being considered. He will do well to heed, and to read again and again, the records of history. In particular, he must not forget the lessons we learned in the war with Vietnam. We did not lack a mighty military in the field in that war. However, the unstinting, unflagging dedication to the prolonged waging of that contest was lacking among the people back home. It is a lesson worth remembering.

Scriptures say that a strong man armed keepeth his palace. I have supported defense budgets now for 50 years, to keep our ''palace,'' our Ship of State, our country strong. I expect to continue to do so. But there need to be questions asked. It will require a lot of questions and a lot of answers. And they should be asked.

Let us remember the Constitution. It will keep us bound to the mast of our Ship of State.

I yield the floor.

EXHIBIT 1

[From the New York Times, Feb. 12, 2002]

MILLIONS IN IRAN RALLY AGAINST U.S.

(By Neil MacFarquhar)

TEHRAN, Feb. 11.—Millions of Iranians galvanized by President Bush's branding of their nation as part of an ''axis of evil'' marched in a nationwide pep rally today that harkened back to the early days of the Islamic revolution, with the American flag burned for the first time in recent memory.

Amid the dirgelike chants of ''Death to America!'' marking the revolution's 23rd anniversary, President Mohammad Khatami tried to display Iran's milder face, stressing his government's interest in détente.

Ever since Mr. Bush designated Iran part of an international terrorist network open to American attack, conservatives in Iran have been greatly buoyed, trying to use a resurgence of disgust with America to quash reform at home, daily denouncing Washington and exhorting Iranians to follow suit. This has made it difficult for President Khatami to preserve his reformist agenda of promoting democracy and rooting out corruption an agenda he emphasized today before he, too, criticized American foreign policy.

''Our policy is a policy of détente, Mr. Khatami told the throng clogging all avenues to Freedom Square in Tehran. ''We intend to have ties and peaceful relations with all nations in the world,'' except Israel.

Although less strident than his old guard foes, Mr. Khatami suggested that the United states was partly to blame for the Sept. 11 terrorist attacks. ''The American people,'' he said, ''should ask today how much of the awful and terrifying incidents of Sept. 11 were due to terrorist acts, and how much of it was due to the foreign policy adopted by American officials.''

The threat to Iran ''originates from the fact that America, or at least some of its officials, see themselves as masters of the world,'' Mr. Khatami said. ''Since they have power, they want to force the world to obey them and exert pressure on countries that disobey. Your revolution threatened America's illegitimate interests in the region, so it is obvious that your are the target of its animosity.''

After each important line, the orderly crowd burst into another round of ''Death to America!'' and waved a variety of signs, including one in English quoting the late revolutionary patriarch, Ayatollah Ruhollah Khomeini, saying, ''The U.S. cannot do a damn thing.''

The chanting switched occasionally to ''Death to Bush!'' One man wrapped his white donkey in a hand-painted American flag with ''Bush'' written on the side, while a truck carried a hug poster mounted with five large close-up photographs of the American president next to five similarly sized pictures of an ape.

In his State of the Union address on Jan. 29, Mr. Bush singled out Iran for trying to develop weapons of mass destruction and for its support for groups like Hezbollah that the United States labels terrorist. In addition, Washington has recently accused Iran of sending weapons to the Palestinians, of trying to undermine the effort to build a stable central government in Afghanistan and of helping Al Qaeda members to escape.

In suggesting that the United States review its own foreign policy rather than cast aspersions. Mr. Khatami specifically cited what he depicted as the plight of Palestinians denied human rights because of American support for Israel.

The threats expressed by Mr. Bush and other administration officials over the last two weeks surprised many in Iran. In some ways, they have united the reformists and the old guard here in criticism of the United States; in other ways, they have strengthened the hand of the conservatives.

Any time we face international problems, democracy stops,'' said Ali Reza Haghighi, a political science professor. ''Now all the discourse must be against the Americans.''

Mr. Khatami worked to keep his reformist agenda alive.

Some people must not object that we are talking so much about democracy, religious democracy,'' he said. ''The stress on democracy is the soul of the Islamic revolution.''

Mr. Khatami's supporters had envisioned the efforts to rebuild Afghanistan as a kind of side door to re-establishing ties with Washington, a prospect that alarmed the hard-liners who still control many of the levers of power here.

Mr. Bush's remarks thus delighted the old guard, which gleefully presented them as evidence that the American attitude toward Tehran remained unchanged, no matter that Iran helped in toppling the Taliban.

The reformists, while critical of America, have tried to suggest that the actions Mr. Bush criticized were the work of shadowy groups within the Iranian elite who want to keep the country isolated and autocratic.

Possibly reflecting uncertainty over how to deal with an American-backed government in Kabul, Afghanistan was barely mentioned at the rally. ''The Taliban were a major bête noire,'' said one western diplomat. ''But now they see a U.S. colony with bases developing in their backyard and they don't know how to handle it.''

At the rally, Iranians were generally polite to the few Western reporters in their midst, saying things like ''Welcome to Iran.'' But there were occasional outbursts of animosity. ''Garbage!'' ''Pigs!'' ''Get out of here!'' shouted one woman, while a man veered close to say, ''I would like to punch America right in the mouth!'' at which point the crowd edged in, bellowing ''Death to America!''

While the size of the Tehran crowd was impossible to estimate authoritatively, the wide avenues and highways leading to Freedom Square in Tehran were jammed with hundreds of thousands of people. Iranian television suggested that millions turned out across the country, showing pictures of jammed streets in every city. Marchers said they were more galvanized than in years past because they felt maligned by President Bush.

The turnout also reflected the daily exhortations to attend that accompanied every news bulletin since Mr. Bush's speech. Employees at various government ministries said they had been told to go.

The calls to attend did not move everyone. In affluent north Tehran, where one occasionally hears support for the idea that Mr. Bush should carry through with his threat to bomb, cars laden with skis headed out of town toward the slopes.

As marchers headed toward the rally, periodically one would step out of the crowd to offer spontaneous thoughts about the day. ''As long as our revolution is against America, we support it,'' said one man, wagging his finger. ''The day there is peace between this country and America, the revolution is over.''

After 23 years, though, the sense of brooding menace that pervaded marches of the past had mellowed. This one felt more like a carnival, complete with a gold coin on offer for the best Uncle Sam effigy.

A yellow banner painted with giant letters in Persian was stretched across one over

pass. In the early days of the Islamic Republic it would have been read as ''America Is the Greatest Satan.'' But today the lettering helpfully included its own English translation, reading, ''America Is Extremely Naughty.''

EXHIBIT 2

BUDGET COMMITTEE HEARING WITH SECRETARY OF STATE COLIN POWELL, FEBRUARY 12, 2002

Senator BYRD. I think the secretary, and I regret that we have scheduled our votes in such a way that we overlooked the importance of these committees and the importance of the questions and the answers that may result in our attendance here and the imposition on the time of witnesses like Secretary Powell.

Let me begin by saying that I join in the commendations that have been expressed by our chairman. I've had a long service with Secretary Powell. When we debated the INF treaty, 1988, I believe it was, I was majority leader for the second time, and Secretary Powell at that time I believe was the national security adviser to the president.

Secretary Powell complimented the Senate on the work that the Senate did on that treaty. I refused to be pushed and pressed and stampeded into a scheduling for debate of that treaty until we had resolved some very, very important questions raised by the then chairman of the Armed Services Committee, Senator Nunn, the then chairman of the Intelligence Committee, Senator Boren, the then chairman of the Foreign Relations Committee, Senator Pell. And I recall that we waited until we got the answers, and the secretary of state—now secretary of state, at the time complimented the Senate on taking the time to resolve these important questions. And Mr. Powell at that time I think engaged himself and was active in helping to resolve some of these very important questions.

So he is a man who has made command decisions, he has led men in war. I think he speaks independently. He has the kind of experience that affords him that view, that independence of thought. He doesn't have to just listen to what somebody else says and reports, he has analyzed many of these questions. And I compliment him on his great service to this country.

Our time is limited. There are two questions I would like to ask. Let me premise the first one by what you have said with respect to the president has no plan to attack, there are no recommendations on his desk at this moment. Now, those are very carefully worded responses to the questions by the chairman, and those of us who have been around here anytime at all recognize that they're not direct answers, and I can understand the secretary.

The president, let me say, though, has made some very bold statements about prosecuting those responsible for the September 11 attacks. The president said that the terrorists are on the run and that they will find no safe haven, there's no cave that's deep enough. He said in the State of the Union address that the terrorists will not escape the justice of this country. I am with the president 100 percent when it comes to punishing the individual terrorists, those who are still living—some of them died on September 11, which was five months ago yesterday—when it comes to punishing those terrorists for the acts of September 11.

But the president has gone further in naming three states that comprise an axis of evil, and you have used that term, Mr. Secretary, already. Iran, Iraq and North Korea, the president has said, ''are arming to threaten the peace of the world,'' and he ''will not stand by as peril grows closer and closer. The United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons.''

Those statements have left me wondering, is the president signaling that we will attack one or more of these countries? Congress passed a resolution on September 14 to authorize the president to use force against those who carried out, assisted or gave safe harbor to those responsible for the attack of September 11. Iran, Iraq and North Korea are not named in that resolution. I've heard no evidence that this axis of evil was responsible for or complicit in the September 11 attacks.

Now, if the president seeks to extend this war on terrorism, a case must be made before Congress and the American people that Iran, Iraq or North Korea are a clear and present danger to our country, and I, for one, am willing to listen to that case. But to carry out the war, the president will need the sustained support of the American people. We saw in Vietnam what the lack of support, sustained support for that war, resulted in. If the president wants to crystallize the support of the American people, he would be well advised to seek from Congress a declaration of war.

After all, we're not talking about using our military against terrorist cabals. We're talking about war against one or more sovereign states. Now, reading many of the news stories about this subject, I have come to a conclusion that while there is no plan perhaps, while there is no recommendation upon the president's desk today perhaps, these matters are evidently being pursued, they're being discussed, they're being considered as options.

Now, when it comes to making war, let's say on Iraq, having been here when you helped to direct the war on Iraq, I possibly could be convinced that we ought to vote—I would vote for a declaration of war. But we're not dealing with Afghanistan if we deal with Iraq. With respect to Iraq and North Korea, we're dealing with countries that have powerful military forces on the ground.

And I would hope, Mr. Secretary, that before we venture into an attack or an invasion or whatever against any one or more of these countries, the help, the support, the sustained support of the American people would be carefully sought through their elected representatives. We ought not to go around shooting from the hip. And I think that some of the statements that have emanated from the administration have alarmed other countries and they're alarming a lot of people in this country.

Now, is the president signaling that we will attack one or more of these countries? If he is considering such an attack as a possible course of action, do you believe, Mr. Secretary, that the president should seek a declaration of war from Congress before unleashing our military might on any one of these sovereign states?

Now, I can understand the inherent powers of the commander in chief. If there's an attack about to occur against this country, he has the inherent power to act. But we have time here to discuss these matters, to discuss the case, to debate pro and con. And I personally believe that the president, before he takes such a step, if that's being considered as an option, we'd better be very careful to bring the American people in on making the case, and we'd better seek a declaration of war from Congress in such a case. That's going to be a very costly venture, if it occurs, it's going to be costly in treasure and in blood, and you know that as well, perhaps more so than I do. And unless he has that support, that sustained support, we'll be engaged in another very costly, dreadful, Vietnam-like venture where the support of the American people vanished. That's one question.

Let me give you one other question to conserve my time, and then you can answer them as you see fit. My other question—well, perhaps you'd better try that one first. [Laughter]

Secretary POWELL. First of all, Senator Byrd, I could not even begin to answer this question without commenting on your opening remarks about the INF treaty. It is one of the more vivid experiences of my career, to have been, shall I say, taught by you about the Senate's prerogatives with respect to treaties. And I'll never forget the meeting you, I and Howard Baker had in your chambers one day, where you made it clear that the Senate had to give its advice and consent in a measured way, only with full information, and I went off to Geneva the very next day to get that full information.

And if I may, I'll never forget you looking at me and say, ''We will not be hurried by any summit meeting that you all have scheduled or anything else of that nature, we will do our job.'' And the Senate did do its job, and I thank you for that guidance and that support at that time.

To get directly to your questions, the president's words in the State of the Union speak for itself. He did not declare war on anyone, nor was he saying he was getting ready to declare war on anyone. In fact, since the State of the Union he has repeated what he had said two times before the State of the Union with respect to Iraq: Let the inspectors in, let the U.N. inspectors in to determine whether or not you were doing the things we are accusing you of, and if you can establish that you are not doing these things, then the world will be a safer place, and you will have dealt with the U.N. We still think we would be better off with someone other than Saddam Hussein running the country.

So the president has made no decisions—to repeat myself—and no recommendations on his desk, even though, as a matter of prudence, we should be examining options with respect to all of these countries. But the first instance is looking at diplomatic and political means.

We have been eyeball to eyeball with North Korea for the last almost 50 years now, and trying to make sure that they are contained, this regime that is a despotic regime. And so I can assure you that the president is very sensitive, first, to the feelings and the views and the perspective of the American people, and he is very appreciative of the role that Congress plays in such matters.

And I'm sure that if he believes some action is taken, or some action is required, he will consult with the Congress, and as a result of consultation will make a judgment as to how Congress should be involved in whatever actions are taken, whether it is by declaration of war or a resolution of the Congress supporting an action that is taken pursuant to some United Nations resolution or through the president's inherent right as commander in chief to engage the armed forces of the United States. You'll recall what we did at the time of the Gulf War, Senator, where with a resolution we then got a resolution from both houses. So I'm sure the president would consult at an appropriate time and determine what he would ask Congress to do, and Congress has, of course, it's own inherent power and right to do what it chooses to do.

Senator BYRD. Mr. Secretary, I thank you for that response. Of course, you and I know that the Constitution does not speak about consultations, nor does it refer to U.N. resolutions. Those are things that have developed over later time. But the Constitution

still says that Congress shall have the power to declare war.

And I believe, as I said earlier, that if the president is contemplating attacking one or more of these countries, I would urge that he not just seek consultation, but he seek a declaration of war. And I might very well vote for that, depending on the case that is made at the time.

My second question, I may miss this vote—I'd do that with regret—but I'm very appreciative of this opportunity to visit with you across the table that's here and to ask these questions. By the way, I've cast more roll call votes than any senator in the history of this republic, and this is not a democracy, this is a republic. But I've cast more votes than any other senator in its long history, and so I don't pass up a vote easily, but I will in this case if I have to.

My second question is this. The president's FY 2003 foreign operations budget requests reflect business as usual when it comes to U.S. aid to Egypt and Israel. But despite providing roughly $5 billion a year—my, how the Appropriations Committee would like to use that $5 billion a year to help some of the states in this country and the people throughout this country with some of their problems—$5 billion a year in economic and military assistance to the Middle East, the conflict between the Israelis and the Palestinians continues to worsen.

It seems to me that our foreign aid dollars to the Middle East, which have no strings attached that I know about, and are not conditioned on any progress being made in the peace process, are being squandered in pursuit of an increasingly elusive peace. Now, this subject, this question isn't often laid on the table as plainly as we're doing right now, but I think it ought to be.

Every year we appropriate roughly $5 billion countries with virtually no questions asked, and they look upon it, I think, as an entitlement, almost as an entitlement. They, I'm sure, from what I've read and learned, that they include it in their budgets at the beginning of the budget process because, as I said, they look upon it virtually as an entitlement. They can be pretty sure of it. I think it's time for questions to be asked.

As a result of the current escalation of violence between the Palestinians and the Israelis, the U.S. seems to be increasing its historic tilt toward Israel and abandoning attempts to negotiate with Yasser Arafat. Given the continuing terrorist attacks by the Palestinians, it is understandable that we're fed up with Arafat. But I've read in the media that even some Israeli reserve soldiers are refusing to serve any longer in the occupied West Bank and Gaza Strip, citing the dehumanizing impact of the occupation.

Do you have any concern that the perception of a greater U.S. tilt toward Israel could prove and is proving to be counterproductive by increasing anti-American and anti-Israeli sentiment in the region by emboldening hardline Israelis who are opposed to the peace process and by precluding the U.S. from fulfilling the role of honest broker in the peace process?

I think, Mr. Secretary, that it is time to put some strings on our foreign assistance in the Middle East and to condition our assistance, to condition our assistance on evidence of progress in the peace process. I think that would be the axis of my questions.

I think it's time to condition our assistance on evidence of progress in the peace process. We have a tool here. We don't seem to use it. Both sides are able to count on a continuation of this money every year, it seems to me. It isn't being used as leverage, as it should be, in the pursuit of the peace process, which would be of the greatest benefit to both of those countries and to our own country and to world peace. Yasser Arafat may be unwilling or unable to act on his own, but I have to believe that Egypt and Jordan, and hopefully other Arab nations, would apply considerably more pressure on the Palestinians if their foreign assistance dollars were at stake.

And I have to believe that Israel might be more willing to discuss the issue of Israeli settlements, which are a real bone of contention, in disputed areas if their foreign assistance dollars were at stake. Mr. Secretary, this is my question: Why shouldn't we condition our assistance to the Middle East, why shouldn't we use this leverage on both sides to get them to the peace table and to make them understand that this money is just not going to be had there for the asking, that they have to produce some evidence, they have to show a willingness, they have to act in pursuit of that willingness? That's my question.

Secretary POWELL. Thank you, Senator Byrd. On the first question, as you know, the roughly $4.6 or close to $5 billion that is spent every year for Egypt and Israeli in FMF and ESF funding is a result of decisions that were made many years ago, after the Camp David accord, and there's been a balance between those two, and as a result we did have a peace agreement between Egypt and Israel.

And as part of that, this funding was appropriate to let both sides develop and let both sides feel strong as a result of defensive FMF funding, which allows them to maintain their military. With respect to the situation with the Palestinians and the Israelis, I must say that Egypt has been enormously supportive of our efforts, and Egypt has been applying pressure on Chairman Arafat to get the violence under control so that both sides can move forward to achieve the kind of peace that you talk about.

With respect to should we use Egypt's money to pressure them, they're doing what we ask of them now with respect to this, they're putting pressure on Mr. Arafat. They are one of our strongest interlocutors with respect to how we deal with Mr. Arafat. We have not cut Mr. Arafat off. I am in touch with his closest associates, and I spoke to him about 10 days ago.

With respect to the Israelis, they are under attack from terrorist organizations that are linked to the Palestinian Authority. We saw the ship come in with 50 tons of military equipment that escalated the situation or would have if it arrived. And to say to them, ''We're going to cut your funds while you are under these kinds of terrorist attacks unless you do something to reward these terrorist attacks,'' is not a strategy that I think will be successful. The strategy we are trying right now and applying right now is to remain committed to a vision of these two states living side by side, remain committed to the Mitchell plan, which provides a path to get there, and committed to the Tenet work plan, which gets us into the Mitchell plan by getting a cease-fire, by getting the violence down.

And in recent days I have been in touch once again with the closest aids to Mr. Arafat talking about the specific things that need to be done so that we can get the violence down and then see an Israeli response, because they now are confident of moving forward into the Mitchell plan. The Mitchell plan talks about settlement activities stopping. The Mitchell plan talks about opening closures. The Mitchell plan has everything we need to get the negotiations, negotiations which under appropriate U.N. resolutions 242 and 338 can lead to a settlement of this crisis and a peace between these two sides.

But until Mr. Arafat really is able to crack down, if he can—and I think he still can, I still think he has that authority, people want to push him aside as a leader, but he's still the leader of the Palestinian people, they see him as such and he's the elected leader of the Palestinian Authority. And so I think he has to use his moral authority and his political authority to get the violence down, as which point we can get into a cease-fire and move toward the Mitchell plan.

We are constantly reviewing the level of funding for both Egypt and Israel and the determination of how it should be allocated between FMF and ESF, and we believe they both make solid cases to us every year that justifies the allocation that we have made to them, and that is the case again this year. But we have not walked away from this, and we are always looking for a means by which we can encourage both sides to show restraint, both sides to do everything that is possible to get toward a cease-fire and progress into the Mitchell plan.

Senator BYRD. Mr. Chairman I have signaled to the floor leadership that I'm willing to give up that vote in order to have been here to ask these questions, Secretary Powell, and I gave it up very reluctantly. My attendance record over a period of 44 years, my roll call attendance record is 98.7 percent of the time. I wouldn't have done that for many secretaries.

Secretary POWELL. I'm honored.

Senator BYRD. I thank you for your response to the question. I hope that there will be increased consideration given to my suggestions here as to the use of this assistance. The American taxpayers give up a lot, they give $5 billion a year to these countries, and there needs to be a return to the taxpayers' investment, I believe to use your words, in the Middle East. So I hope that there will be increased consideration of using this leverage.

And also, Mr. Secretary, I hope you'll convey to the president that we need to use our words with care. Words mean something, especially in this context. We cannot shoot from the hip if we're contemplating as one of the options going into one of these countries or attacking them. This would be a very sobering, somber, serious matter, and I would appreciate it if you would tell the president about this.

And I'm not out to pick on the president, I spoke on the Senate floor one Friday about the president, about his speech to the National Prayer Breakfast, and I have many good things I can say about the president. But this is very sobering, and some of the words that have appeared to come from the hip from this administration have caused considerable alarm. I don't have to tell you that, you sense that, I'm sure.

Secretary POWELL, Senator Byrd, thank you. And I've been through several crisis with the president in our year together, some big, some small. There was the Soviet spy crisis of the early days of the administration, then the Chinese reconnaissance plane, and then what we've done since September 11, and I have been through many crises in my career with several presidents.

And this president does not shoot from the hip and he does not act from the hip. He handles each one of these with a clarity of purpose, with patience, with prudence, listens to all the advisers that he has in his administration and gathers the support of the American people and his coalition partners as he moves forward. And I'm sure that as new challenges arise in the future, particularly if they arise with these three countries or other countries, he will act in a similar manner.

Senator BYRD. I hope so, Thank you.

EXHIBIT 3

DEPARTMENT OF DEFENSE.—MILITARY (051)—DISCRETIONARY

[In billions of dollars]

Year	Budget authority
2002	330.8
2003	[1] 379.3
2004	387.9
2005	408.8
2006	429.6
2007	451.4
2008	463.7
2008	476.3
2010	489.3
2011	502.7
2012	516.4
2003–12	4,505.3

Includes $10 billion request for the Defense Emergency Response Fund.

Source: Office of Management and Budget, January 24, 2002.

The PRESIDING OFFICER. The Senator from Kansas.

COMMENDING PRESIDENT MUSHARRAF OF PAKISTAN

Mr. BROWNBACK. Madam President, I appreciate the comments from my colleague from West Virginia and his thoughts. We have some important decisions to make.

I speak on an event taking place currently in the Capitol, the welcoming of the President of Pakistan. Yesterday, we passed a resolution welcoming President Musharraf of Pakistan to the United States. He arrived in Washington last night. He will be here for a couple of days.

I rise to call attention to this visit of President Musharraf and praise his courageous leadership in standing by the United States in its war on terrorism. President Musharraf has taken action within his own country to align with the international community to reject terrorism. It has been a very difficult task for him. Pakistan has been in a great deal of turmoil. President Musharraf has worked to bring calm and peace to that region. But when we went forward with our efforts in Afghanistan, which to date have been quite successful, this was a very trying time in Pakistan.

President Musharraf stood by his commitment to end terrorism, stood by his commitment to work with the United States. That has been a help in our efforts in that region of the world and for the future of Pakistan and relationships with the United States.

In a speech last month, President Musharraf set Pakistan on a new course with his version of a moderate, dynamic, Muslim nation. He reminded the Pakistani people that charity begins at home. It was time to fight the root causes of extremism: poverty, and illiteracy. He has done this at great risk to himself on behalf of a peaceful and prosperous future for Pakistan. He has opened the way to eventual true peace with India. It is an important message for Pakistan, for South Asia, and for the whole world.

President Bush also made note of President Musharraf's important leadership in the State of the Union Address. The President said: Pakistan is now cracking down on terror, and I admire the strong leadership of President Musharraf.

Pakistan's support remains essential to our fight against terrorism. We are grateful to President Musharraf for his leadership. Without it, Operation Enduring Freedom could not have been accomplished and could not have received its accomplishments or made the accomplishments that it has to date. We owe much to the Pakistani people. However, the fight is not yet over and risks still remain. Violent extremists could still undermine peace and security in the region. As we isolate our enemies, so, too, must we aid and draw closer to our friends.

Pakistan's bold stand against terror alongside the United States is not made in a vacuum. There are real economic and social consequences in Pakistan for assisting the United States in our war effort. It would be a failure of U.S. foreign policy not to pursue the means of assisting our ally in its time of need. We must provide assistance to Pakistan in all the areas that will help keep it on track with President Musharraf's vision for a prosperous, strong, independent, modern Islamic state, a democracy of capital markets.

As we have all seen, a small yet very focused and vocal Islamic minority within Pakistan has spoken out against the Pakistani Government and the assistance it received from the United States. The small minority has called for and implemented damaging labor strikes and encouraged countless numbers of young Pakistanis to cross the border into Afghanistan to fight alongside the Taliban. This is a strong vocal minority in Pakistan. A further weakened economy and increased unemployment in Pakistan, the clear results of some weakened markets that have taken place because of the war on terrorism, only add to the influence of fundamentalists in Pakistan by strengthening social and economic unrest on which extremists prey.

This is why it is crucial that the United States now provide assistance and support to Pakistan. It is time to make sure that our policies of all sorts—economic, social policies, geopolitical policies—reflect what is best for America, not only in terms of our economy but also for our future security. Helping Pakistan through this difficult and necessary transition is in the direct interests of the United States. We must support those willing to take on the fight for freedom if we are to see our values flourish around the world.

I am delighted President Musharraf is visiting the United States at this time. I know he will receive a strong, positive welcome from the United States.

PHILIPPINES

Mr. BROWNBACK. Madam President, I will draw the Senate's attention to a second matter. In the Philippines we have troops performing training exercises with the Philippine military. This is very important in helping to subdue a terrorist group called Abu Sayyaf. They have a couple of my constituents. They are being held by the Abu Sayyaf terrorists. We are hopeful this exercise in the Philippines that the Filipino troops are carrying out and the training exercise the United States is doing with the Philippines will result in that group, the Abu Sayyaf, being subdued; the Americans being freed safely and being returned home to their families. They have been held since May of last year and have been on the move constantly in the jungle.

I am appreciative of the administration for stepping forward.

IRAQ

Mr. BROWNBACK. Madam President, as Senator BYRD mentioned, we have serious issues to contemplate concerning Iraq. This is a country we have had conflict with before, a country that has weapons of mass destruction. Iraq has been at war with itself and its neighbors for 22 of the 23 years that Saddam Hussein has ruled that country. The people of Iraq have not known peace under Saddam Hussein.

History reveals repression at home is often the breeding ground for outside aggression. Iraq is certainly a case in point. There has been no peace in Iraq since Saddam Hussein came to power more than two decades ago. First, he declared war on Iran, a war that lasted nearly a decade. He then declared war on the Iraq Kurdish population in the north. He even used chemical weapons against them in his pursuit of total and absolute control of Iraq.

After the war with the Kurds, he declared war on Kuwait, calling Kuwait an integral part of Iraq. Since his defeat at the hands of the U.S.-led coalition, Saddam has spent the past decade defying the United Nations and the United Nations imposed agreements and building weapons of mass destruction to use against his next victims.

History has also shown that authoritarian dictators do not successfully become integrated into civilized society. On the contrary, they seek any and all means to pursue their goals and perceive any positive overtures towards them as acts of weakness on the part of their adversaries. It has been the policy of the U.S. Government to seek the overthrow of Saddam Hussein since the passage of the 1997 Iraq Liberation Act. This policy is strongly supported—it was then and is now—by both Houses of Congress and both parties. It was also embraced by President Bush in the Republican Party platform.

This is going to be a key issue as we continue to look at what we are going to do to remove Saddam Hussein from power. We are not safe. That region of the world is not safe as long as Saddam Hussein rules in Iraq. This situation is not tenable over the long term. I am hopeful we can move forward to see

some stability established in the region without Saddam Hussein in power.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I ask unanimous consent to be recognized for 5 minutes to speak as in morning business.

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

FARM POLICY

Mr. CARPER. Madam President, earlier this afternoon, an hour or so ago on this floor, we adopted a new farm policy for our country. In Delaware, in Michigan, even in Connecticut and Kansas, farmers are struggling to try to make a go of it.

Some of the woes that our agricultural communities face are laid at the foot of the agricultural policy which was adopted by the Congress, I believe, in 1996. I would just observe that some of the problems our farmers face may be fairly attributable to that national farm policy. But not all of the woes of agricultural communities can be traced back to the legislation adopted some 6 years ago.

In my own view, the bigger problem is overproduction. In my own view, the bigger problem is we have too much commodity and not enough demand for that commodity, whether the commodity is corn or soybeans, the commodity is milk or rice or cotton or beef—even chicken. We have too much commodity and not enough demand, too much commodity produced in this country and around the world.

The bill we have just passed provides subsidies to support those who are raising major crops, including corn, soybeans, rice, and cotton. Those supports—loan prices—are important. But the answer to what ails our farms and our agricultural communities is not merely more subsidies or greater subsidies. The answer, I believe, ultimately is better alignment of supply and demand.

Let me mention a few ways we can do that. One is through biomass. At a time when our country is importing about 60 percent of the oil we use, we also live in an age where you can take soybean oil and mix it with diesel fuel and provide a perfectly good fuel for diesel vehicles. We can do a similar thing with corn for ethanol vehicles.

We are learning how to transform plants into factories. We can now raise plants that will create an enzyme that is otherwise created in a chemical factory. The plants literally enable you to produce the same enzyme 40 percent cheaper than might be produced with a chemical factory, with fewer negative environmental consequences.

We learned how to infect or inject a virus into a product or crop such as soybeans or even tobacco, and the plant then creates a vaccine which can be used, among other things, to fight cancer.

The folks at DuPont have recently perfected a soybean seed that grows a soybean that produces soy milk that is almost impossible to distinguish from regular milk with respect to its taste.

Those are just some of the things we can do to create more demand, untraditional demand for the enormous amount of commodities, farm commodities we are producing in this country and in other places.

I add to those, we found out in Delaware, as we clean out our chicken houses, we can take some of the chicken litter and, instead of spreading it on our farm fields, we can burn it and derive a Btu value for electricity, and do so in an environmentally clean way. We can take the chicken litter out of chicken houses and treat it under high temperature and make a high nitrogen/high phosphorus fertilizer and ship it across the country and across the world and provide a source of cash revenue for farmers from what was previously a waste product of which we had too much.

One of the aspects I especially like about the bill we passed is it supplements and supports the efforts of States such as Delaware and perhaps others here to preserve agricultural land through conservation. In my State, we have invested tens of millions of dollars, State dollars in recent years, to purchase agricultural development rights, providing money for farmers for farm equipment, irrigation systems, and other ways to support their farming operation by agreeing to put their farms in perpetuity in farmland. It is going to continue to be a farm forever. This legislation we passed here today provides Federal support for what many of us have done at the State level.

The last thing is companies such as DuPont and Syngenta and others in our country have developed ways to create seeds and to grow plants that are more drought resistant than otherwise would be, plants and seeds that are resistant to a particular kind of inspect, plants that need fewer fertilizers, less fertilizer, less insecticides, less pesticides. We have the ability, through that kind of research and the application of that research, to build a better mousetrap—if not a better mousetrap, a better soybean plant, and to enable us to have a leg up on the competition in other parts of the world. Those are some of the things, some of the factors that will enable us to help revive our agricultural industry in this country.

There are a lot of good things in that farm bill that we passed. Part of the solution, part of the way out of the duress in which farmers find themselves, is in that legislation. But a good deal is not. I wanted to share some of my thoughts today, and I thank the Chair for indulging me.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, before we move to the business which has been agreed to, I ask unanimous consent to proceed for 1 minute as in morning business.

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

THANKING SENATOR ROBERT C. BYRD

Mr. DODD. Before I came to the floor, I had the opportunity to listen to the distinguished senior Senator from West Virginia give some remarks on terrorism. Watching him, listening to him, I am sure all of our colleagues—whether or not you agreed with everything Senator BYRD had to say—felt the deeper growing sense of appreciation in this Chamber that I have for his valued participation. His voice, his sense of warning about matters that this Nation needs to be cognizant of, are extremely helpful and worthwhile. There is no better person, in my view, to express those words of restraint and caution than someone who embodies, I think for all of us, this institution at its very best.

I wanted to take a moment to thank Senator BYRD once again for taking time out to express his views about the concerns of our budget and the priorities of the Nation in these difficult times. I hope those in positions of authority and responsibility will listen carefully to what he has to say.

There is no finer patriot, in my view, than Senator ROBERT C. BYRD. His words of caution about fiscal matters ought to be listened to very carefully. I thank him for his comments.

Madam President, I suggest the absence a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 565 by title.

The assistant legislative clerk read as follows:

A bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

AMENDMENT NO. 2688

Mr. DODD. Madam President, I call up amendment No. 2688.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. MCCONNELL, Mr. SCHUMER, Mr. BOND, Mr. TORRICELLI, MR. MCCAIN, Mr. DURBIN, Mr. BROWNBACK, Mrs. CLINTON, Mr. DAYTON, Mr. BAYH, Mr. NELSON of Florida, Mrs. CARNAHAN, Mr. KERRY, and Mr. BREAUX, proposes an amendment numbered 2688.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DODD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. DODD. Madam President, some four decades ago, Dr. Martin Luther King said:

The history of our nation is the history of a long and tireless effort to broaden and to increase the franchise of American citizens.

This afternoon, we are gathered to consider the election reform bill which will live up, in my view, to the words Dr. Martin Luther King uttered 40 years ago; that is, to broaden the franchise of American citizens.

It is a great honor and privilege to bring this bill to the floor, the Equal Protection of Voting Rights Act, with a bipartisan compromise that will be substituted for the committee-reported text of the bill when we get to that point.

As Thomas Paine once said:

The right to vote is the primary right upon which all other rights are based.

Therefore, there is no greater challenge facing this body than restoring Americans' faith in our electoral process.

Fourteen months ago yesterday, the American public decided—the country decided—who would be the 43rd President of the United States. What we are engaged in today, and will be over the next day or so, is not any discussion or debate about the past. George W. Bush is the President of the United States and has been since January 20 of last year. This bill is about the future, what we can do to try to make our election systems more fair, bring them up to date, to make it possible for people to cast votes more easily, and to see to it that those who may want to corrupt the system somehow will find their job far more difficult.

I consider this to be landmark legislation. It will help to ensure that our voting procedures are uniform and nondiscriminatory, and that Americans can have faith in the integrity of our election results.

While we should not underestimate the significance of this action, we should be cautious not to overstate the Federal role in the administration of Federal elections. This legislation does not replace, nor would I tolerate it replacing, the historic role of State and local election officials, nor does it create a one-size-fits-all approach to balloting in America.

We, by no means, intend to supplant the traditional role that State and local governments have played administering elections for Federal office. But, for the first time, with this legislation, the Congress—the Federal Government—will set basic minimum requirements and provide critical resources for Federal elections.

This bipartisan compromise ensures that the most fundamental right in any democracy—the right to vote and have that vote counted—will be secure. But it also allows States to meet the legislation's broad requirements in a way best suited for their voting jurisdictions.

Notwithstanding this flexible approach, the primary objectives of this compromise remain expanding the franchise, protecting our Federal elections system from corruption, and providing the ongoing leadership that is required of a Federal partner.

Let me be clear from the outset, this legislation is not about one State or one election. While the problems that took place in Florida a year ago last November brought the flaws in our election system to the Nation's attention, these are systemic problems that have existed in many States for many years.

In fact, the General Accounting Office found that 57 percent of voting jurisdictions nationwide experienced major problems conducting the November 2000 elections. Meanwhile, the Caltech/MIT Voting Technology Project found there have been approximately 2 million uncounted, unmarked, or spoiled ballots in each of the last four Presidential elections.

Luckily, unlike many other issues that are presented to the Congress, the vast majority of the flaws in our election system are eminently fixable.

As the National Commission on Federal Election Reform, led by former Presidents Jimmy Carter and Gerald Ford, found:

The weaknesses in election administration are, to a very great degree, problems that Government can actually solve.

We have the opportunity today to take an incremental step forward toward solving our election problems as we begin debate on the Equal Protection of Voting Rights Act.

This bill also represents a major step forward for the United States Congress. For the very first time, the Federal Government will become a real partner with State and local governments in the administration of Federal elections.

This legislation has been 15 months in the making. In the wake of the November 2000 elections, then-chairman of the Rules Committee, and my good friend, MITCH MCCONNELL, first pledged that our committee would conduct a series of hearings on election reform. Under his leadership, the committee held the initial hearing on March 14 of the year 2001.

When I assumed the committee chairmanship in June, I pledged to continue to make election reform the top legislative priority of the Senate Rules Committee. Toward that end, we held an additional 3 days of hearings on election reform last summer, including the committee's field hearing in Atlanta, GA.

Recognizing that comprehensive election reform legislation could not be a partisan endeavor, we brought together last fall a bipartisan team of Senators devoted to this issue.

Our election reform working group included, of course, Senator MITCH MCCONNELL of Kentucky, who deserves tremendous accolades for initially focusing the Rules Committee on this important issue and for being a great partner in trying to resolve the many difficult issues we resolved in presenting this piece of legislation to our colleagues; our Republican colleague from Missouri, KIT BOND, who was a passionate advocate for including provisions to ensure the integrity of Federal elections; and my fellow Rules Committee members, New York Senator CHUCK SCHUMER and New Jersey Senator BOB TORRICELLI, who were among the very first Members of this body to forcefully push for bipartisan election reform legislation.

I am grateful to all of these Senators for their tireless work and that of their staffs who put in literally hundreds of hours to bring us to this point of considering a proposal on election reform.

All of us worked many months to develop legislation that would try to meet one central goal; that was to make it easier to vote in America and much harder to corrupt our Federal election system.

On December 19 of last year, we introduced the compromise legislation as a Senate substitute amendment No. 2688, an amendment to S. 565, the election reform bill reported out of the Rules Committee on August 2. Today, Majority Leader DASCHLE acted on his commitment to make this bill one of the first items on the Senate agenda during the 2nd session of the 107th Congress and I mark himself his considerable efforts.

Our legislation simply establishes three basic minimum Federal requirements that support our principle of making it easier to vote but harder to corrupt the system: One, voting system standards so that every eligible blind or disabled person and every language minority can cast a vote privately and independently; two, provisional voting so that an eligible voter in America will never be turned away from the voting booth and voting information posted at the polls so that voters are informed of their rights; and three, statewide voter registration lists and verification for first-time voters who register by mail so that all eligible voters who choose to vote will be able

to do so and those who are not eligible cannot.

Our bill offers not just goals but some guarantees as well. We ensure that these reforms will be implemented by authorizing the Attorney General to bring civil action against jurisdictions that fail to comply with these requirements. The compromise also establishes a new Federal agency with four bipartisan commissioners. They will be appointed by the President, confirmed by the Senate, and each will serve a single 6-year term. Our colleague, Senator MITCH MCCONNELL, deserves great credit for originating this idea which I think is going to bring great value in years later, as other Congresses meet to consider ways to achieve the goal of making it easier to vote and harder to corrupt the system. That commission, which we will establish with this bill, will serve a very valuable purpose, where election officials from across the country can get unbiased advice and counseling as to what is the best equipment and material to have in order to improve the election system.

The Election Administration Commission will eventually administer the minimum requirements and grant programs to fund them. It will also serve as a national clearinghouse and resource for information on election administration.

Finally, our legislation provides Federal funding to States and localities. For the very first time, again, the Congress and the Federal Government will start paying their fair share of the cost of administering elections for Federal office. I don't believe in having Federal minimum requirements, as logical and as sensible as they are, and not coming up with the resources to our States and localities to pay for them. We do that.

The Senate bill authorizes a total of $3.5 billion towards this end: $3 billion with no matching requirement over 4 years for the purpose of funding the requirements; $400 million in this fiscal year for an incentive grant program to allow States and localities to immediately fund improvements to their voting systems and election administration procedures, including education programs and other such provisions that States may see as being in their interest.

We also authorize $100 million for an accessibility grant program to help make polling places physically accessible to the blind and disabled in this country.

This generous commitment of Federal resources underscores the fact that nothing in this bill establishes an unfunded mandate on States or localities. We give States and localities the resources as well as the flexibility they need to get the job done. We recognize that State and local election officials are uniquely qualified to determine what voting systems and procedures are most appropriate for their individual States and communities.

Importantly, in passing this bill, Congress will also meet the first civil rights challenge of the 21st century. During our hearings on election reform, our committee heard repeated testimony regarding the disproportionate treatment minorities received at the polls in the 2000 elections: African-American men asked about felony convictions; Arab Americans forced to produce citizenship papers or to take a loyalty oath; Hispanic Americans failing to receive language assistance required by the Voting Rights Act of 1965. The committee also received disturbing testimony regarding the disenfranchisement of Americans with disabilities.

There are 21 million Americans with disabilities who did not vote in the last election. This makes the disabled community, persons with disabilities, the single largest demographic group of nonvoters in the United States of America, 21 million. We hope that with the provisions I have already mentioned in this bill, we will see that number, if not disappear entirely, certainly be reduced considerably.

The General Accounting Office found that only 16 percent of all polling places in the contiguous United States are physically accessible from the parking area to the voting room. Not one of the 496 polling places visited by the General Accounting Office on election day 2000 had special ballots or voting equipment adapted for blind voters.

Certain voters and communities are disproportionately affected by the inadequacies in our voting systems and election administration policies and procedures. As evidenced by testimony received by the Rules Committee and numerous commission reports and studies, racial and ethnic minorities, language minorities, disabled voters, overseas and military voters, and poor communities all encountered unique and disproportionate problems with the November 2000 elections—and elections before then, I might add—even after accounting for the effects of income, education, and poor ballot design.

For example, the General Accounting Office found that both a jurisdiction's voting equipment and its demographic makeup had a statistically significant effect on the percentage of uncounted votes. The General Accounting Office found that counties with higher percentages of minority voters had higher rates of uncounted votes.

The GAO also reported that percentages of uncounted Presidential votes were higher in minority areas than others, regardless of voting equipment.

These findings underscore the importance of instituting minimum Federal requirements that will ensure that all voters have an equal opportunity to vote and have their vote counted.

By passing this bipartisan election reform bill, the Senate will help ensure that every single eligible American has the equal opportunity to both cast a vote and, of course, have their vote counted.

Let me be as clear as I can: Nothing in this bill or in this debate is intended to call into question the results of the November 2000 Presidential election. This legislation is not about the past, it is about the future of our democracy. I hope my colleagues will agree that this bill, while not a perfect piece of legislation—it does not deal with every imaginable election reform proposal—is a solid bill. It is a good bill. It is a bill that took a lot of hours and a lot of compromise between people committed to seeing to it that we improve a system that is so fundamental to the workings of our democracy.

The House has already enacted comprehensive election reform. I commend Congressman STENY HOYER and Congressman NEY, who worked very hard to put together a bill that they could pass, and we will have to meet with them and resolve differences if we are able to ultimately pass the bill that Senator MCCONNELL and I present to the Senate today.

Certainly the President also deserves a great deal of credit. He could have sat back and not included anything in his budget and said: Let's wait and see what you do up there, if you can get something done, and then talk to me. But the President included $1.2 billion in the budget he submitted several weeks ago for election reform. I thank him in this Chamber; I have done so elsewhere. It is not all the resources we will need, but it is a major commitment by the President of the United States to this issue. Our hope is that we can get our job done and get a bill passed and then take advantage of the offer made by the President in his budget proposal.

Finally, we believe this compromise is constitutionally sound. The compromise is squarely within the broad grant of congressional authority to legislate in the subject area of the administration of Federal elections. The GAO concluded that with regard to the administration of Federal elections, Congress has constitutional authority over both congressional and Presidential elections.

Again, I thank my colleagues who labored so hard. I thank TOM DASCHLE and TRENT LOTT, our respective leaders, for allowing this bill to come to the floor; our staffs, for their tireless work; and again, my colleagues, MITCH MCCONNELL, KIT BOND, CHUCK SCHUMER, BOB TORRICELLI, and many others who have expressed their views and thoughts on this legislation.

I thank the witnesses who testified before our committee.

Finally, a very special thanks is reserved for my friend, JOHN CONYERS, the ranking Democrat on the House Judiciary Committee and my coauthor in the House of the original election reform legislation. His commitment to this issue is unparalleled.

With that, I conclude with the words I opened with of Dr. Martin Luther King:

> The history of our Nation is the history of a long and tireless effort to broaden and to increase the franchise of American citizens.

Today, when we gather to discuss this reform measure, we are fulfilling the commitment Martin Luther King suggested in his words 40 years ago—to broaden and increase that franchise.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, in the context of human history, it was not so long ago that the mere concept of having the right to vote was scarcely imaginable for most people. Even in America, the world's greatest democracy, half our citizenry was denied the right to vote until the 19th amendment was ratified early in the 20th century.

At the outset of the 21st century, we still have work to do to ensure that all Americans who are eligible to vote, who have the right to vote, do indeed have their votes counted on election day—counted, I hasten to add, within an election system in which the integrity of the process is not in question, so voters can know their right to vote is not diminished through fraud committed by others, nor diminished through error, poor procedures, or faulty equipment.

This is the mission that Senator DODD, Senator BOND, Senator SCHUMER, Senator TORRICELLI, and I tasked ourselves with in crafting the bipartisan legislation before the Senate today. We sought to make American election systems more accurate, more accessible, and more honest. And we worked to achieve these ambitious goals within the framework of legislation which both sides of the aisle could support and which would not financially crush the states who will be changed with its implementation.

None of us got everything we wanted in this bill, not even close. There are things in this bill that one or more of us are not big fans of. But that was the price for putting this bipartisan bill together.

The Dodd-McConnell bill is a comprehensive compromise. In other words, it is a target-rich environment for amendments—legitimate, germane, relevant, even laudable efforts to make the bill better, or worse, depending on one's perspective. I myself could easily come up with a couple dozen amendments. My staff already has, just in case. If the Senate passed them all we would, in my view, have crafted the perfect election reform bill.

Regrettably, we all have different notions of what comprises perfection in this realm. So in the interest of advancing a pretty darn good election reform bill, I will not be offering my two dozen meticulously-crafted, well-intentioned amendments to make the bill absolutely perfect.

Senator BOND, who has done tremendous work in making sure that the effort to make voting easier is balanced with provisions to make vote fraud harder, could certainly offer up some excellent amendments to go further in that direction. I think the Senate should do more to reduce vote fraud but, realistically, we are not going to get everything we want in that regard through this Senate. The Dodd-McConnell bill does a lot which is worthwhile, overdue and, significantly, is doable.

This quest for election reform has its roots in the photofinish 2000 presidential election that culminated in the protracted battle over Florida's electoral votes. While that saga was playing out, some of us in the Senate began formulating reform legislation to make a recurrence less likely in the future and to make improvements in the system that election officials in the states have long known needed to be made but for a variety of reasons, primiarly financial, were not done. Over a year ago, Senator TORRICELLI and I proposed a comprehensive election reform bill. Last May, Senator TORRICELLI and I joined with Senator SCHUMER to put together yet another bill. The McConnell-Schumer-Torricelli bill garnered even more bipartisan support with a remarkable cosponsorship list of 71 cosponsors, a solid roster fairly even between Republicans and Democrats. Senator DODD, meanwhile, headed up an effort that had much in common with the McConnell-Schumer-Torricelli approach, but was distinct in important ways, and gathered all the Democrats behind it. Between our bills and others introduced in the past year, we come into this floor debate with over 90 Senators having cosponsored some version of election reform. That is a ringing, approaching unanimous, endorsement for serious election reform.

All of my colleagues who have worked to advance election reform and get us to this point deserve thanks. Most especially, Senator DODD, the Chairman of the Rules Committee, whose dogged determination to put together a consensus these past few months has paid off. He was so focused in pursuit of a bill that as the weeks were going by in December without an agreement, it occurred to me that he would never let up and I might have to spend Christmas around his conference table. Fortunately, there is a Santa Claus and his present to me was a ticket home to Kentucky for Christmas, a bipartisan election reform bill in the can, and CHRIS DODD off my back. I say that, of course, with humor and only the greatest respect for the chairman's tireless effort.

The Dodd-McConnell bill is legislation that the entire Senate can be proud of supporting, and pass knowing that it would significantly improve America's election systems. Americans should also take note that the chairman is a champion in promoting accessibility in elections, a real hero to America's disabled community for whom the right to vote can be difficult to exercise. This bill reflects his commitment in this respect as well. The Dodd-McConnell bill before the Senate incorporates three key principles contained within the original McConnell-Torricelli bill put together over a year ago.

No. 1, Respect for the primary role of the States and localities in election administration. The Constitution's 10th amendment too often get short-shrift around here, but we tried mightily in this compromise to respect it. I will say this bill treads more than I would like on state prerogative but it does so a good deal less than with some of the interest groups out there would like and which some other bills have proposed.

No. 2, Establishment of an independent, bipartisan commission—comprised of two Democrats and two Republicans appointed by the President—to provide ongoing election assistance to the states, in the form of grants and as a clearinghouse for information on new technologies and effective election procedures.

The point to this, in my view, was to have one place in the country, a repository of objective advice, where State and local officials, who are constantly confronted by vendors trying to sell them one election system or another, could go for objective advice. Nobody is selling anything at this commission—just giving objective advice about what kind of upgrade, if any, is necessary to improve the election system in a particular State.

As Chairman DODD can attest, I fervently believe that for long-term reform of election systems, we need a permanent repository for the best, unbiased, objective information that states can tap into the future. At present, the typical county-level or State official is besieged by commercial vendors who want to sell their product, balloting machines and the other implements of election administration. The new commission in the Dodd-McConnell bill will provide objective, state-of-the-art information that can be weighed against whatever sales pitch is coming from vendors.

No. 3, Strong anti-fraud provisions to clean-up voter rolls and ensure integrity in American elections.

We want eligible people to vote. Dogs, cats and cadavers are making far too many appearances in American elections, even though a constitutional amendment giving them a right to vote has not been enacted.

As good as the Dodd-McConnell bill is, and as high as my hopes are that it will result in much better election systems in America, we should temper somewhat the expectations it may raise. We cannot legislate perfection in this arena. Voters are imperfect people whose ballots are counted by imperfect people and tabulated by machines created and maintained by imperfect people. If in the future another presidential election comes down to the wire, with an electorate comprised of hundreds of millions of people virtually evenly split in their candidate preference, then there could well be some controversy in arriving at a conclusion.

In the meantime, the Dodd-McConnell bill would go a long way in making

elections better, more accessible, more accurate and more honest. And it would prevent some of the chaos in close, competitive elections. If we can do that, I would call that a pretty good day's work in the Senate.

Again, I compliment Chairman DODD for his persistence in getting us to the point we are, and I thank particularly Senator BOND, Senator SCHUMER, and Senator TORRICELLI.

Mr. MCCAIN. Mr. President, I urge my colleagues to support the compromise amendment in the nature of a substitute to S. 565, the Equal Protection of Voting Rights Act of 2001. I am proud to join Senators DODD, MCCONNELL, SCHUMER, BOND, and TORRICELLI in co-sponsoring this historic piece of legislation designed to improve our Nation's voting practices and procedures. I am glad that we are addressing this issue now, and hope that legislation is enacted soon. In many states, voters will go to the polls this year using much of the same equipment as was used in 2000, which will result in many of the same problems. Our purpose here today is to prevent the problems of the Year 2000 election from occurring in the future.

While we all remember the ''butterfly ballots'' and ''hanging chads'' of Florida, we must also consider the facts that show the problems of Election 2000 were nationwide. In Chicago and Cook County, Illinois, nearly 123,000 presidential votes went uncounted, and in Fulton County, Georgia, one of every 16 ballots for president was invalidated. The General Accounting Office found that 57 percent of jurisdictions nationwide had major problems in Election 2000. The MIT/Caltech Voting Project estimates that 4 to 6 million votes were lost. During two hearings by the Senate Commerce Committee, our witnesses testified that many of these problems were caused by outdated and inaccurate lever and punch card voting machines, distinct inadequacies in poll worker and voter education, and confusion over election administration and voting registration procedures. I believe that the mandatory standards and federal grant programs found in the compromise amendment I am cosponsoring will play an important role in resolving these problems in the future.

However, I am concerned that this bill will not address the concerns of disabled voters, who time and again confront physical barriers when they attempt to vote. Disabled voters should not be forced to bring their own ramps to polling places, go through alternative entrances, and put up with numerous other barriers and humiliations when they attempt to vote. According to a 2001 General Accounting Office report, 84 percent of all polling places in the contiguous United States have one or more potential impediments to disabled voters. While many of these polling places use curbside voting, many disabled voters complain that curbside voting infringes on their privacy, when they cast a ballot. So instead of voting, many disabled Americans simply stay home. According to the National Organization on Disability, 21 million voting age citizens with disabilities did not vote. President Alan Reich of the National Organization on Disability summed it up best, when he stated that ''there is great irony that a person in a wheelchair can't get into some polling places, whereas a person using a guide dog can get inside, only to find out there is no accessible voting machine.'' I intend to offer a minor technical amendment to this legislation that I hope will resolve many of these concerns. I urge my colleagues to join me in addressing this issue.

I look forward to working with my colleagues on this historic legislation. This legislation should be addressed in a timely manner by the Senate, and I hope that the conference with the House can also be resolved soon, so that we can send a bill to the President for his signature. I am afraid that it is already too late to do much to help voters for the 2002 election, but we can and must make sure that the problems of Election 2000 are not repeated in 2004.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2858 TO AMENDMENT NO. 2688

Mr. ALLARD. Mr. President, I have an amendment numbered 2858 at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself and Mr. SMITH of New Hampshire, Mr. GRAMM, Mr. ALLEN, Mr. ROBERTS, Mr. COCHRAN, Ms. COLLINS, and Mr. LUGAR, proposes an amendment numbered 2858 to amendment No. 2688.

Mr. ALLARD. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the standard for invalidation of ballots cast by absent uniformed services voters in Federal elections, to maximize the access of recently separated uniformed services voters to the polls, to prohibit the refusal of voter registration and absentee ballot applications on grounds of early submission, and to distribute copies of the Federal military voter laws to the States)

On page 68, between lines 2 and 3, insert the following:

TITLE IV—UNIFORMED SERVICES ELECTION REFORM

SEC. 401. STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) by striking ''Each State'' and inserting ''(a) IN GENERAL.—Each State''; and

(2) by adding at the end the following:

''(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

''(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—

''(A) solely on the grounds that the ballot lacked—

''(i) a notarized witness signature;

''(ii) an address (other than on a Federal write-in absentee ballot, commonly known as 'SF186');

''(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or

''(iv) an overseas postmark; or

''(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.

''(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 402. MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.

(a) IN GENERAL.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 401(a) of this Act and section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(5) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and

''(6) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—

''(A) has registered to vote under this section; and

''(B) is eligible to vote in that election under State law.''.

(b) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

''(7) The term 'recently separated uniformed services voter' means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—

''(A) presents to the election official Department of Defense form 214 evidencing their former status as such a voter, or any other official proof of such status;

''(B) is no longer such a voter; and

''(C) is otherwise qualified to vote in that election.'';

(3) by redesignating paragraph (10) (as redesignated by paragraph (1)) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

''(10) The term 'uniformed services voter' means—

''(A) a member of a uniformed service in active service;

''(B) a member of the merchant marine; and

''(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 403. PROHIBITION OF REFUSAL OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

(a) IN GENERAL.—Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1279), is amended by adding at the end the following new subsection:

''(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 404. DISTRIBUTION OF FEDERAL MILITARY VOTER LAWS TO THE STATES.

Not later than the date that is 60 days after the date of enactment of this Act, the Secretary of Defense (in this section referred to as the ''Secretary''), as part of any voting assistance program conducted by the Secretary, shall distribute to each State (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) enough copies of the Federal military voting laws (as identified by the Secretary) so that the State is able to distribute a copy of such laws to each jurisdiction of the State.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2861 TO AMENDMENT NO. 2858

Mr. SMITH of New Hampshire. Mr. President, I send a second-degree amendment to the Allard amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2861 to amendment No. 2858.

Mr. SMITH of New Hampshire. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the standard for invalidation of ballots cast by absent uniformed services voters in Federal elections, to maximize the access of recently separated uniformed services voters to the polls, to prohibit the refusal of voter registration and absentee ballot applications on grounds of early submission, and to distribute copies of the Federal military voter laws to the States)

Strike ''**SEC. 401.**'' and all that follows and insert the following:

STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) by striking ''Each State'' and inserting ''(a) IN GENERAL.—Each State''; and

(2) by adding at the end the following:

''(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

''(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—

''(A) solely on the grounds that the ballot lacked—

''(i) a notarized witness signature;

''(ii) an address (other than on a Federal write-in absentee ballot, commonly known as 'SF186');

''(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or

''(iv) an overseas postmark; or

''(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.

''(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 402. MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.

(a) IN GENERAL.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 401(a) of this Act and section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(5) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and

''(6) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—

''(A) has registered to vote under this section; and

''(B) is eligible to vote in that election under State law.''.

(b) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

''(7) The term 'recently separated uniformed services voter' means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—

''(A) presents to the election official Department of Defense form 214 evidencing their former status as such a voter, or any other official proof of such status;

''(B) is no longer such a voter; and

''(C) is otherwise qualified to vote in that election.'';

(3) by redesignating paragraph (10) (as redesignated by paragraph (1)) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

''(10) The term 'uniformed services voter' means—

''(A) a member of a uniformed service in active service;

''(B) a member of the merchant marine; and

''(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 403. PROHIBITION OF REFUSAL OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

(a) IN GENERAL.—Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1279), is amended by adding at the end the following new subsection:

''(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 404. DISTRIBUTION OF FEDERAL MILITARY VOTER LAWS TO THE STATES.

Not later than the date that is 60 days after the date of enactment of this Act, the Secretary of Defense (in this section referred to as the ''Secretary''), as part of any voting assistance program conducted by the Secretary, shall distribute to each State (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) enough copies of the Federal military voting laws (as identified by the Secretary) so that the State is able to distribute a copy of such laws to each jurisdiction of the State.

SEC. 405. EFFECTIVE DATES.

Notwithstanding the preceding provisions of this title, each effective date otherwise provided under this title shall take effect 1 day after such effective date.

Mr. SMITH of New Hampshire. I am pleased to join with the Senator from Colorado in sponsoring this important amendment to reserve voting rights for our service men and women.

I yield the floor to the sponsor.

Mr. DODD. Is the amendment of the Senator from New Hampshire the same amendment as the amendment of the Senator from Colorado?

The PRESIDING OFFICER. Yes.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I am pleased that the Senate is addressing the matter of election reform. Like carpenters tending to their tools or fishermen working on their nets, this Nation's government must constantly maintain and improve the voting rights of American citizens, the very basis of our democracy.

I am pleased with the work of Senators MCCONNELL and DODD and others on the bill before us. Nobody who has ever participated in an election in any serious way, running, campaigning, judging, and so on, would believe that our system is perfect. It is based on a sound framework, but the devil in the details requires constant exorcism.

Today we are moving to address in this body various problems that have come to our attention, some of them alarmingly so in the November 2000 elections.

I have been in contact with the Colorado Secretary of State, and local election officials, and I know that there are problems on a federal level, on the state level, and the local level. Everybody from county clerks to Senate Rules Committee chairmen have recognized the faults that currently call for correction.

As a Member of the Senate Armed Services, I paid special attention to the complaints I heard from our uniformed services men and women. Without undue politicalization, I believe it is appropriate to at least allude to the spectacle of campaign lawyers hovering over election officials with preprinted military absentee ballot challenge forms. I understand that in an election every opportunity available will be utilized. I think, however, that this body should undertake efforts to ensure that military service men and women are given all due chances to exercise their right to vote.

Now, this body has tried to do so. Last year, during consideration of the Defense Authorization, the Senate passed a bipartisan amendment strongly supported by Chairman DODD and Senator MCCONNELL that significantly improved the voting rights of military service members. I was pleased at this passage, and so were the various military support groups, veterans organizations, and others who contacted me with their notes of encouragement and support.

Unfortunately, in conference the House refused to accept two of the provisions. I believe their position on this matter was not the correct one. I think they were seriously wrong. And so we must try again.

My current amendment, cosponsored by Senators BOB SMITH, PHIL GRAMM, ALLEN, ROBERTS, COCHRAN, COLLINS, and LUGAR, is another attempt to legislate protection for our military voter's franchise.

The first section prohibits a State from disqualifying a ballot based upon lack of notarization, postmark, address, witness signature, lack of proper postmark, or on the basis of comparison of envelope, ballot and registration signatures alone, these were the basis for most absentee ballot challenges.

There has been report after report of ballots mailed, for instance from deployed ships or other distant postings, without the benefit of postmarking facilities. Sometimes mail is bundled, and the whole group gets one postmark, which could invalidate them all under current law. Further, military ''voting officers'' are usually junior ranks, quickly trained, and facing numerous other responsibilities.

We can not punish our service personnel for the good faith mistakes of others.

The second section addresses a certain group of voters who can slip through the cracks. Military voters who are discharged and move before an election but after the residency deadline cannot vote through the military absentee ballot system, and sometimes are not able to fulfill deadlines to establish residency in a State.

This language allows them to register absentee and vote in person at their new polling place. This brings military voters into their new community quicker.

The third section contains language denying States the ability to deny a military ballot because it is mailed in too early. There are very good administrative reasons why early ballots are prohibited in some cases, but there are better reasons why we should offer uniform voters—who are subject to rapid deployments, temporary duties, and unexpected assignment changes, the option to secure their vote by mailing their ballot when they can, even if it is early.

Finally, given all the changes considered and passed by the Congress in various vehicles, I have included language directing the DoD to mail a copy of current military voter laws to every state to be distributed to each voting jurisdiction. I think it would be a good idea to assist State Secretaries of States in their duties and clarify Congressional intent by codifying all the modifications.

Given the current deployment schedule of our armed forces, I can conceive of no time more urgent than the present to let our men and women in uniform know that the government of the Unites States will not tolerate any appearance of a challenge to their voting rights. I urge acceptance of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I rise in strong support of Senator ALLARD's efforts to protect the voting rights of our military men and women. It would be a pretty empty debate on election reform if the Senate ignored the discrimination that military voters suffered in the last Presidential election and, indeed, I would say probably have suffered in the past, in prior elections.

I visited Afghanistan just a month or so ago and saw the circumstances that those men and women were under out there. Had that been at election time, I can imagine how difficult it might have been to make all the arrangements to get ballots to these people, get these ballots out, get them back, and have them counted on time. I think it is important to understand it is the spirit and intent that matters. If a person is trying to get his or her ballot in and it gets in a day or so late but it is in time to be counted, then we ought to err on the side of caution for the military person who is out there putting his or her life on the line for us every day.

I can speak from firsthand experience. I was aboard a ship during the Vietnam war. Although that was not an election time at the time I was out at sea, there were periods of time when we were out at sea for 3 weeks, sometimes longer, with no access to any mail or the opportunity to get any mail off the ship. So had I been in a situation where the Presidential election or any other election was going on during that time, there may have been a time when I might not have been able to get a ballot off the ship. So I think we have to err on the side of caution and make absolutely certain we go out of our way to make sure these ballots are counted.

That is what the Allard-Smith amendment is. I am proud to support it and proud to have my second-degree amendment to be sure we get a vote on this very important measure.

The uniformed services election reform amendment is a comprehensive package for all of our military voters. Section 401 of the amendment provides, for example, that a State may not disqualify a military absentee ballot for some technical reason.

Stop to think about it. Maybe somebody didn't put his name on right or something—some technical reason. Think about the circumstances where, for a smudge, for example, or something might be a technical violation, that ballot could have come out of the mud of Afghanistan, making its way perhaps through rain or sleet or snow or some other way to get to a vehicle, perhaps to a helicopter and then out of there and over to some other location where it can eventually make its way back to Florida or Colorado or New

Hampshire or wherever the votes are supposed to be counted. That is a long trek through some very difficult conditions sometimes.

I think it is sad that this new provision of law is necessary. Really, reasonable people ought to make reasonable efforts to count the ballots of our military. We saw, unfortunately, that didn't happen. In Florida, military voters were systematically disenfranchised and there was an organized effort even to refuse to count these ballots. I find that outrageous. There is some irony that all this effort took place in Florida, to disenfranchise military voters, and now look what happened just 9 months later, 9–11. I wonder what some of those same people who refused to count military ballots and were looking for excuses not to count them might be saying right now.

There are no allegations of military voter fraud. That is not the issue. There is a difference between fraud and trying to disqualify ballots for every technical reason that comes down the pipe. Yet military votes were disqualified in the last Presidential election.

If, for example, someone was out at sea and the mail call was missed by an hour and because the mail call was missed by an hour a ballot may not get to the returning ship for another week or so, or perhaps even—whatever, a couple of days or weeks or whatever, and because they missed that one mail call, that means they can't get that ballot in. If it comes in a day late or an hour late or whatever, is it the intent, is it the right thing to do to count that person's ballot? Of course the answer is yes.

Section 402 provides new protections to recently separated uniformed service voters as well. It protects the rights of military voters to register to vote and request absentee ballots. It provides that the Secretary of Defense provide to the States new laws on military voting.

On April 6, I introduced a bill entitled the ''Armed Forces Voting Rights Protection Act of 2001.'' This bill provides an amendment to the Voting Rights Act of 1965, to protect against a discriminated class of voter—the military voter. Isn't it somewhat tragic and ironic that the military voter is discriminated against?

Senator ALLARD's amendment is more comprehensive than mine, and I am more than pleased to support his comprehensive effort to protect the voting rights of the military. The reason why the pending amendment is needed is because current law failed members of the Armed Forces in the last Federal election.

We are not making allegations against anybody about fraud. It needs to be tightened up so we can make it work so the military folks get the benefit of the doubt.

Federal law allowed military voters to be disenfranchised in the State of Florida. The pending amendment would stop discrimination against our military men and women.

Over time, the Federal Government has increased protection of the voting rights of military personnel who serve overseas. Several Federal laws have been enacted since 1942 to enable those in the military and U.S. citizens who live abroad to vote in Federal elections.

The Soldier Voting Act of 1942 was the first attempt to guarantee Federal voting rights for members of the armed services, and that law only applied during wartime. But members of the armed services were provided the use of a postage free, Federal postcard application to request that absentee ballot.

Again, when the request comes in, when you send that request out, are you in a position to get that ballot and mail it out promptly? Not if you are out on some bivouac for a week someplace or you are out in a combat zone somewhere for a month and you don't get back. It may not be convenient for you to get it back that quickly. So we need to get them out there promptly so they can get these ballots filled in and sent back. That expired at the end of World War II.

In 1986 President Reagan signed the Uniformed and Overseas Citizens Voting Act, which required the United States to permit uniformed services voters, their spouses and dependents, and overseas voters who no longer maintain a residence in the U.S., to register absentee and vote by absentee ballot for all elections for Federal office.

These Federal laws were insufficient to protect our men and women in the last election because many of these military voters were disenfranchised by canvassing boards throughout the State of Florida.

Anyway, the pending amendment fixes Federal law to prevent this discrimination. Whether it is accidental or intentional, it does discriminate against military voters stationed overseas. This law would fix that law.

Over 1,500 overseas ballots were challenged in the State of Florida during the election in 2000.

Think about that: 1,500 military ballots changed most of the time on technicalities, and many of those military men and women who served our country in some hostile environment were disenfranchised.

In Tallahassee in November of 2000, Robert Ingram, who was awarded a medal for heroism as a Navy corpsman serving in the Marines in Vietnam, said the following about Florida elections boards:

> They need to count the votes for service people abroad.

It seems to me that to even allow one military ballot to be disqualified on a technical reason is really outrageous.

According to the Miami Herald of November 26, 2000:

> Many canvassing boards have said, however, they followed State law to the letter in disqualifying overseas ballots with no signature, no witness, incorrect address, no postmark or date and a variety of other problems.

Let me focus on one from my own personal experience. When I was aboard ship, you would give a letter to the so-called mailperson on the ship. If he didn't take that down and postmark it that particular day, he might carry it around for a couple or 3 days. Why? Because the mail is not picked up from off the ship. It doesn't happen until you enter port. If you are not going to enter port for 3 days, why postmark it the day it was picked up from you as the person who is mailing the letter?

That is what could happen. That is one example of why the postmark should not be a criteria for why we take a person's right to vote. The pending amendment would fix that law.

The Miami Herald did not cite actual fraud to disqualify 1,500 votes, mere technicalities in the State law.

The pending amendment repairs this problem with Federal law and does not allow a ballot to be disqualified without ''evidence of fraud.''

If there is evidence of fraud, absolutely the ballots would be disqualified. I think if there is any suggestion, or any indication, or any evidence whatsoever that there was fraud committed, disqualify them. Fraud applies to everybody—military or nonmilitary. If you commit fraud, your ballot shouldn't be counted.

There is evidence that there was a coordinated effort to disenfranchise our military voters, I am sad to say.

Former Montana Governor Mark Racicot said last fall:

> In an effort to win at any cost, the Vice President's lawyers launched a State-wide effort to throw out as many military ballots as they can.

Forty percent of the 3,500 overseas ballots in Florida were thrown out in November of 2000 for technical reasons.

You can go on and on. There is plenty of indication. We don't need to go through all of it.

Felon convictions ranged from murder to rape and drunk driving. What crime did our military personnel commit? I can understand why you wouldn't put a ballot in the hands of a rapist or a murderer or a drunk so he could vote. But no such crimes were committed by our military.

It is not a crime to volunteer to serve in the military. Every vote must count including our military votes.

Basically, the ballots in Florida were disqualified for two reasons: The requirement that ballots must be postmarked by election day, and failure to either have a proper signature or date on the actual ballot. Neither of these issues are currently addressed in the Federal law. So this changes that. Federal law leaves details to the State, such as postmark requirements and authentication of ballots.

In conclusion, I ask that voting rights be restored to our military voters.

This is not something that anybody should oppose. It is not controversial, in my view. I think the Senator from Colorado has a good amendment. It is

the least we can do. The statute did not cover it. People got a little bit excited in the heat of a political campaign and were trying to disqualify ballots, or qualify ballots, whatever the case may have been and on whichever side you were on, and the military was caught in the middle. That is not right. We owe it to our service men and women to at least allow them to participate in this great Republic that they sacrifice so much to defend.

I am pleased to support the Allard amendment.

If it is appropriate, I will ask for the yeas and nays on the amendment at this point.

Mr. LUGAR. Mr. President, I am proud to co-sponsor this amendment with my friend and colleague Senator ALLARD, who has been involved deeply in this issue from the first whispers of improprieties following the 2000 election.

Like him and many Americans, my conscience was struck by the failure of our voting system as a whole. The inadequacies exposed in Florida may well have been found in any election district in any county in any state in the Union. While my state of Indiana has been hard at work remedying its own shortfalls, it is essential that coupled with important changes we made as part of the FY 2002 Defense Authorization bill, we take the steps outlined in this amendment to improve the lot of the military voter.

We live in the 21st Century. We are used to instantaneous information and communication and data exchanges. We hold ourselves up as an example to the world in the area of free and fair elections. Everyone can vote, we say. Register, show up at the polls. Or, if you are not going to be in your home state, you can get a paper ballot through the mail and send it in. Simple.

Unfortunately, the reality has been much more complicated. In fact, as recent history has indicated and any military member deployed overseas can tell you, it's not simple. Depending on the election year, DoD goes to varying lengths to get the word out to the individual service members, however, there is no real oversight and many times the Sailor, Soldier, Airman or Marine in the weeks leading up to the election is far away from a polling place without the materials he or she needs to register or vote.

For the overseas military voter, registering and voting is a multi-step process that can take months: first, a member must register to vote; second, a member must request an absentee ballot for each election and its primary; third, the ballot must be received from the local voting jurisdiction; fourth, a member must complete that ballot and get it in to his or her election Board in the allotted time; and last, the ballot is subject to a myriad of state and local election board requirements.

With mail delays, remote deployments and other very real circumstances, it can take literally months to complete the multi-step process. And, in the end, a military voter has no idea whether that ballot was received and counted, or disqualified because of some obscure state standard for those ballots. Some jurisdictions, as we saw in Florida, execute a stringent checklist on each ballot to ensure that it meets exacting standards, unbeknownst to the servicemember.

To say the least, military voters need to plan ahead, especially when they are going to be deployed during an election. Certainly, the right to vote implies some level of responsibility for the member, but even such matters as the proximate scheduling of primary and general elections in some states renders obsolete even the most prudent planning. This is further complicated by run-offs and local ballot issues, making even a 45-day turnaround, the recommended standard, challenging.

This amendment, coupled with the changes we made in the fall, will help alleviate this situation for the 2.7 million military members and their families who may at some time in their careers be sent overseas.

The Government Accounting Office, the Reserve Officers Association, the Carter-Ford Commission and others discuss each of the shortfalls we seek to correct. And, as my colleague from Colorado has stated, we are looking for very modest changes.

Among the provisions we are advocating, Senator ALLARD's amendment clarifies the standards that states must follow when processing the ballots for our military personnel, and in maintaining their registrations following discharge or release from active duty. All states should use the same checklist when evaluating a ballot in a federal election, and it should not be promulgated only during recount proceedings.

Fairness and simplification is important. But even as we tout its merits and strive for simplification, we must maintain a cautious eye on ensuring an accurate list of qualified voters. Fraud happens. As we watch the trend toward more permissive absentee voting, the opportunities to commit fraud could very well expand. The Allard amendment is thoughtful about balancing procedural simplification and standardization with the imperative to prevent fraud.

I strongly encourage my colleagues, on behalf of the men and women in uniform who are serving overseas today and those who will be in the remote corners of the globe in future election seasons, to support this amendment.

Mr. DODD. Mr. President, I don't know of any reason why we can't accept the amendment. I commend both my colleagues. I know this was offered earlier in the Armed Services Committee, and for reasons that the Senator from Colorado may be more aware of as a member of the committee, getting rid of what they considered to be extraneous amendments may have been the rationale.

But I think our colleagues pointed out good rationale as to why it is worthwhile. In fact, the basic thrust of this bill that Senator MCCONNELL and I are trying to address is why the two friends offered this amendment; that it ought to be easier to cast the ballots. Too often I think these places can be less than user friendly when it comes to exercising one's franchise. Rejection on minor technicalities and discarding someone's effort to express a choice in an election is something we need to minimize, to put it mildly.

I support the amendment. I am happy to accept it, if the Senator wants to do it that way.

The PRESIDING OFFICER. The yeas and nays were requested.

Is there a sufficient second?

Mr. SMITH of New Hampshire. I didn't formally request it. I said if it is appropriate, I would do it. I withdraw my request.

Mr. MCCONNELL. Mr. President, I am certainly pleased to hear the chairman of the committee, Senator DODD, indicate that he is willing to accept the amendment.

I congratulate the Senator from Colorado and the Senator from New Hampshire. When this amendment was offered last year, there was a significant effort to derail it. I think that as a result of the hard work of the Senator from Colorado—I see the Senator from Kansas who is deeply interested in this issue is in the Chamber. They were all chagrined, as I recall, that it was lost in conference on the DOD authorization bill. I think as a result of their perseverance and coming back here today and pressing forward, it seems as if we are on the verge of having it accepted.

I think it is a tribute to the Senators from Colorado, Kansas, and New Hampshire. I thank all three of them.

I see the Senator from Kansas. He might want to address this issue before we wrap it up.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. I thank the Chair, and I thank my distinguished friend from Colorado. Addressing this issues is certainly long overdue. If we are going to have an election reform bill, the very definition of election reform begins with the intent of my friend's legislation.

As most marines know, there are no ex-marines. There are only former marines. As a veteran and as a member of the Armed Services Committee, I recalled what happened in our last election to military personnel.

We witnessed a travesty. Election officials in some areas of the country failed to count thousands of military absentee ballots. This is a slap in the face to the men and women who serve in the armed forces protecting American interests.

We must respect the constitutional rights of all citizens—especially those

in uniform defending our country. It seem to me that a very basic Constitutional right was abrogated. This amendment achieves the goal of giving military personnel the confidence that their vote matters.

It ensures that military personnel have the right to cast votes in local, state and federal elections, and makes certain those votes are counted. It extends voter registration, absentee ballot protections, and requires that states prove fraud before disqualifying votes in federal elections.

Until recently, we took for granted the sacrifices our military made on a daily basis. The supreme purpose of the federal government is defense of our homeland. Give those who defend our homeland the same rights and privileges ordinary citizens enjoy.

Consider a 1952 letter written by a former member of this body, which pertains to this issue:

> Many of those in uniform are serving overseas, or in parts of the country distant from their homes. They are unable to return to their states either to register or to vote. Those risking their lives deserve to exercise the right to vote. The least we can do at home is make sure they can enjoy the rights they are preserving.

President Harry Truman penned those words. His support of the military vote was so strong that he signed the Federal Voting Assistance Act into law in 1955. That legislation laid the groundwork for the 1975 Overseas Citizens Voting Rights Act, and it is now being improved the Senator from Colorado and others who are cosponsoring this bill.

Voting is the cornerstone of democracy. Before passing any piece of this legislation, we must first show our appreciation to service men and women by letting them know that their vote is a right, not a privilege.

So again, I credit the distinguished Senator from Colorado, and all those involved—Senator SMITH, Senator MCCONNELL, and the distinguished chairman, who I know is also very supportive.

I am very proud to have my name as a cosponsor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Kansas for his gracious remarks and really appreciate him working with us on this particular issue. I also thank the Senator from New Hampshire for all his help. I particularly thank the chairman for his support, and the ranking Republican Senator, Mr. MCCONNELL, for his help in relation to the amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. If I could have the indulgence of the leader, I would like to share a personal anecdote that does not relate to voting but relates to smudges and things that may occur from time to time.

For military personnel, as you know, some of the ballots were disqualified because of a smudge mark or something not clearly readable.

In 1945, when my father was killed at the end of the Second World War in a plane crash in the Chesapeake Bay—serving in all of his combat missions, he was killed in a military aircraft that went down in the Chesapeake Bay—his body was recovered 2 days later. Of course, in the recovery of his body, they recovered his wallet.

My mother—who was then a young widow with two boys—had to follow the limousine from Virginia back to the funeral parlor in Trenton, NJ, where my father was buried. She had no money for gasoline because we could not use it then; you had to use stamps. The only stamps she had were the stamps from my father's wallet.

After filling up with gas, when she went into the gas station to present those stamps, the attendant would not take the stamps because he said he could not read them; they were smudged.

My mother never forgot that story. Until almost the day she died, she talked about it, about how much that hurt her, that no matter how much pressure was put on that attendant, he refused to accept those stamps.

So I think we have to err on the side of caution for our military. They go through a lot. There is a lot of sacrifice. That story was not about a ballot, but it was about a document, if you will.

So I really appreciate the support of Senator DODD and Senator MCCONNELL and Senator ALLARD and others for this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, if there is no further debate, I ask that we vote on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2861.

The amendment (No. 2861) was agreed to.

Mr. DODD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Allard amendment No. 2858, as modified.

The amendment (No. 2858), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to talk about the measure that is before us. I have had the pleasure of coming to this Chamber on several occasions to talk about it as we prepared to move forward.

I think it is vitally important that we have taken up this extremely important measure so early in this session. It is not the first bill to be considered, but it is probably the first new one to be considered after the others that have carried over.

I offer my very special thanks to the distinguished Senator from Connecticut and the Senator from Kentucky for the great work and effort they have put in on this legislation. We have also worked with the Senator from New York, Mr. SCHUMER, and the Senator from New Jersey, Mr. TORRICELLI, because we are all concerned about assuring that we safeguard the most important right that a citizen in a democracy such as ours has; and that is the right to select the leadership, the right to select those who represent them.

Today, together, we are in the process of delivering on the promise that for all Americans we want to make it easier to vote and harder to cheat. I think that is what the American people want: Every American citizen—appropriate age, appropriate qualifications, properly registered—ought to be able to cast a ballot without difficulty. They also ought to be able to do that only once. That is the other part. We should, and we will in this bill, make it very hard for people to cheat. We know that every fraudulent vote cast dilutes the rights of those who cast lawful ballots.

The Missouri Court of Appeals, on election day in November 2000, was presented with a case where an order was entered in St. Louis City Circuit Court to keep the polls open. The court of appeals was very clear. They expressed what higher courts in this land have expressed previously; that is, if you permit people to vote more than once, to vote in the name of a dead person, a nonexistent person, or even a dog, as we have talked about previously in this Chamber, you are diluting and, thus, devaluing the vote of those who cast their vote legally, who have a right to vote, who have a right to have their voice counted, and counted once.

I think we have accomplished this goal. We have worked long and hard. As we know, there has already been one amendment offered that has been acceptable to both sides to improve this bill. So we are not saying that this has dealt with every area. I know there will be several other questions and concerns raised. But I think we have a very good foundation which will move the process forward.

I am not a member of the Rules Committee, nor prior to the year 2000 did I consider myself an expert on election reform.

I first saw the corrosive effects of potential fraud in the 1972 election, when I was running for Governor of Missouri. My opponent engineered an effort to keep the polls open late in St. Louis.

We thought we were doing well, but they kept voting in the city of St. Louis, which runs about 70 percent or

more Democratic. We were concerned. The polls stayed open until, as I recall, late in the evening. It finally appeared that there had been enough of a margin in the votes that rolled up out in the State that there were not, even laughably, enough votes in St. Louis to turn it around. So they finally shut it down.

I was elected. I went on to say we were going to clean up the State of Missouri. When I had the power to appoint the election board, as I did in the city of St. Louis, the county of St. Louis, Kansas City, Jackson County—I appointed good, solid Republicans for the Republican positions, and I took the nominations of Democratic members of the Missouri General Assembly to appoint good, solid Democrats.

One of the best protections we have in the voting process is to have good, solid Republicans and good, solid Democrats watching each other, making sure that neither side cheats. That is important.

I am pleased to say that during the 8 years I served as Governor, I thought Missouri ran elections pretty well.

Let's fast forward 28 years: Same State, same city, same play called from the same vote fraud playbook.

I saw firsthand an effort to influence an election illegally. On election day, we heard, in advance, there was going to be a lawsuit filed, as reports circulated throughout the day that they expected there would be voting ''irregularities.'' And sure enough, they went into court.

It was the Gore-Lieberman team that went into court in St. Louis. Fourteen minutes later they filed an almost identical suit in the city of Kansas City, again an overwhelmingly Democratic area. The suit was thrown out in Kansas City.

In St. Louis, they entered an order keeping the polls open. Surprisingly enough, they had recorded messages from Rev. Jesse Jackson being played on the radio saying you can vote until 10 or you can vote down at the election board until midnight. It seems they planned this in advance. The contention they took to the judge was that the Democratically appointed election board in the city of St. Louis was conspiring to prevent the overwhelmingly Democratic voters of St. Louis from voting for the Democratic ticket and therefore they needed to keep the polls open so they could continue to vote.

If you are going to cheat in an election, you don't go into an area where you have an overwhelming number of your votes and have your people conspire to keep your voters from voting for your candidates. Nevertheless, they introduced the measure, and it was ultimately—very shortly, fortunately—overturned by the Missouri Court of Appeals.

This was truly extraordinary. But, frankly, it underscored for me the fact that vote fraud is not merely something to be studied in the history books. You have all heard that joke in various parts of the country—I have used it in some areas in Missouri—I am so committed to politics, when I die I want to be buried in a certain county or even in a certain State because I want to be able to continue voting from the grave.

That is a joke that, unfortunately, was alive and well in St. Louis.

Here is what happened. The day before the 2000 election, there was a prediction that there would be so much confusion on election day that a lawsuit would be necessary to keep the polls open. This candidate for office said: If it requires keeping the polls open a little longer, we are going to get a court order to do it.

Sure enough, as predicted, on election day there was much confusion, some of it from people bussed in. A lawsuit was filed to keep the polls open late. This is where it really gets interesting.

The plaintiff in the case was a man named Robert D. Odom. His lawyer claimed that Robert D. Odom could not vote because of the long lines and feared his client would be unable to vote unless the polls were kept open late. But what we discovered was that Mr. Robert D. Odom's real problem was not that he faced long lines at the polling place. That was not his problem. The main reason that Robert D. Odom was unable to vote had to do with the fact that he had been dead for a year and a half.

Long after the court case was thrown out, when confronted with the uncomfortable fact of the death of Robert D. Odom, Mr. Odom's attorney admitted the mistake, one he never bothered to share with the presiding judge or the court to correct the record. The plaintiff seeking relief, according to that lawyer, wasn't Robert D. Odom. The attorney claimed it was actually Mr. Robert M. Odom, also known in local political circles as Mark Odim, a political operative for a candidate Lacy Clay, who was successful as Democratic candidate for Congress in that election. The plaintiff's identity only raised more troubling questions. The more we dug, the more we found.

In the case of Mark Odom, the Congressman today, we found, despite his plea to the courts for relief from the lines that were too long at the local polling places, the evidence showed that Mr. Odom had in fact already voted earlier that day. The evidence is his own signature on a signature card retrieved from his own polling place.

Certainly we hope he was not trying to vote a second time. What we witnessed in St. Louis was a premeditated effort to keep the polls open late in St. Louis, an overwhelmingly Democratically controlled city, because an aide to a Democratic candidate for Congress feared he would be unable to vote even though he had already voted that day. It sounds incredible, but that is the record. It is right there in the record, and we have the court transcript and the documents to prove it. The judge approved the scheme. The polls were kept open late, until the effort was overturned in the evening.

The effort to keep the polls open late in St. Louis was not the only ''irregularity'' we saw on election day. Elsewhere in town, a panel of city judges was rubber-stamping court orders to allow unregistered people to vote. The Missouri Constitution says you have to be registered. So they went in, and the secretary of state's office reviewed the applications filed by 1,233 St. Louis city and county residents who were allowed to vote, even though they were not registered to do so.

Here are some of the reasons given to judges for people who failed to register before the deadline passed and were the bases for circuit judges in St. Louis ordering them to be allowed to vote:

> I want a Dem President.
>
> I did not know it was required.
>
> I was a felon. I was released on November 1999, and I didn't know that I had to register again to vote.

Parenthetically, you are not permitted to vote if you are a convicted felon unless you have been pardoned.

> I was late registering due to me were going through a mental disorder.

Do you know what the city judges did? They rubber-stamped these requests, even though they failed to meet the clear standards under State law for court orders to vote. Only 35 of the 1,268 court orders to vote met the legal standard set by Missouri law.

All of the evidence gathered by Missouri's Secretary of State indicates it was no accident that hundreds, if not thousands, of unregistered people showed up in front of judges willing to rubber-stamp these requests. No accident, indeed. The evidence indicates that there was a premeditated effort to organize the delivery of these illegal voters to the polls, where they would be welcomed by judges all too willing to disregard the law and grant them illegal court orders.

That wasn't the extent of it. The investigation of the secretary of state turned up some truly amazing things: 62 Federal felons voted in that election, along with 52 State felons, people who are not legally entitled to vote; 68 people voted twice; 14 dead people cast votes—I have heard of people with an undying commitment to politics, but that is carrying it a little too far—79 people registered to vacant lots in the city of St. Louis voted in the election; 45 of the city's election judges were not registered to vote as they are required to do in order lawfully to hold the position of election judge; the discovery of 250 addresses that are not identified as apartments from which 8 or more individuals are registered to vote. A random sampling of 54 of these locations indicates that 14 of them might have been used as drop sites for multiple false voter registrations.

All this is only what we know from the press and the public reports. There may be more. There is an ongoing Federal investigation. We don't know what the results of that will be. We can't

say. Frankly, we had a very active and alert press corps that began to dig out some of these things and helped bring to the attention of the secretary of state and others what was going on.

Sadly, this vote fraud was not a one-time occurrence in November of 2000. The specter of vote fraud returned to St. Louis as the flowers in the spring. Just before the daffodils were coming up, probably the crocuses, we saw suspect voter mail-in registrations to vote. On the very last day to register to vote before the mayoral primary, someone dropped off 3,000 voter registration cards, most for purported would-be voters in the third and fifth wards north of St. Louis, on 2 specific streets, most written with identical handwriting. And as it turns out, almost every single one of them was fraudulent.

The brazenness of that vote fraud is stunning. One of the fraudulent voter registration cards belonged to what was purported to be a reregistration of the late city alderman, Alberto ''Red'' Villa. It might have been about the 10th anniversary of his death—certainly, a theologically significant date, but not significant in terms of qualifying for registration. There was a registration card belonging to the deceased mother of another city alderman also found among the 3,000 dropped off on the last day of voter registration.

Yes, even in this day and age, just because you die is not grounds to disqualify you from voting in St. Louis, because everybody knows how you would have voted if you had been there.

Now, it seems that in some places nobody gets stirred up by vote fraud during general elections between Democrats and Republicans. But watch out if it happens during a Democratic primary for mayor because that is real jobs and patronage at stake.

After the shocking attempts to steal the mayoral primary race in St. Louis, the local press reported that the FBI had subpoenaed all of the records at the city election board for both the general election and the mayoral primary.

While we await the results of that Federal investigation, it has already provided quite an education. Some days, I feel as if my staff and I are in a graduate program at the St. Louis school of election fraud. The more we dug into the issue, the more we were able to see the size of the problem in St. Louis.

We found, for example, that the number of registered voters in the city of St. Louis threatens to outnumber the voting-age population. A total of 247,135 St. Louis residents, dead, alive, or even canine, are listed as registered voters, compared to the city's voting-age population of 258,532. That translates to a whopping 96 percent registration rate. Were that they were all legitimate registrations, that would be a tremendous mark of civic involvement and participation in St. Louis. But I am from Missouri; you have to show me that those were all one person, one registration, one vote.

Lest you think I am only talking about St. Louis, according to the Associated Press, there are 18 municipalities in Allegheny County, PA, with more registered voters than voting-age adults. Upper St. Clair has 15,361 registered voters, but, unfortunately, they only have 14,369 residents of voting age.

Back to St. Louis. About one-quarter of registered voters in that city are on the inactive voter list, meaning that the U.S. Postal Service has failed to verify that 70,000 people are actually still living at the addresses from which they registered, or even whether they are still alive.

But it gets worse. More than 23,000 people registered to vote in the city of St. Louis are also registered somewhere else in the State. That means 1 out of 10 St. Louis City voters are double registered. We saw some who were triple registered. Some were even quadruple registered.

In a review of the voter registrations, we found five Missouri voters registered at four different places in the State—certainly among our most active civic volunteers, with four different voting locations. Of course, there is my favorite case of Ritzy Mekler, a loyal St. Louis registered voter, and loyal mixed-breed canine. Yes, a dog is registered to vote in St. Louis. I have respect for the dearly departed such as Red Villa, and I like dogs, but I really don't think either one of them ought to be able to vote.

About the only thing we have not seen in St. Louis is the actual election of a dog or a dead person to political office.

Voting canines is not only a St. Louis problem. There was also the case of Cocoa Fernandez in West Palm Beach, FL. Cocoa's owner registered the dog to shed light on the ''failings in our voter registration system.''

Some of these cases are humorous. Others are deadly serious. For example, a Saudi man detained by Federal authorities in Denver, CO, for questioning about the September 11 terrorist attacks was found to have registered to vote at the local department of motor vehicles even though he was not a citizen. Worse yet, the records show that he actually voted in last year's Presidential election.

In Greensboro, NC, a Pakistani citizen with links to two of the September 11 hijackers was indicted by a Federal grand jury for having illegally registered to vote.

It is really quite sad that in the 21st century, in the world's greatest democracy, we still tolerate woefully tangled and fouled up voter registration systems that all but invite vote fraud.

I have recounted in the last few minutes some of the stories that formed my education in vote fraud. So while many wanted to talk about Florida after the last election, I wanted to make sure we learned additional lessons from vote fraud in St. Louis and elsewhere. This is not merely a local story. The root cause of what is so terribly wrong with St. Louis elections lies in the Federal law.

More specifically, it lies within the loopholes in the Federal law. For example, Federal law actually makes it very difficult for cities such as St. Louis to maintain accurate voter registration lists. It blocks States from authenticating mail-in registration cards—the first line of defense in preventing vote fraud.

In order to prevent this kind of election scandal from occurring again in St. Louis or elsewhere, I knew we had to fight to close the election law loopholes. I had to share with my Senate colleagues what I had learned. So I testified before the Senate Committee on Governmental Affairs. That brought me to tell my story of the St. Louis problems to CHRIS DODD, chairman of the Rules Committee. I told him how important the topic of election reform was to me. I told him that election reform without protections against vote fraud could not earn my support. He listened, and we talked a great deal and agreed on a formula that we believed could attract bipartisan support. We agreed to write a bill, along with Senator MCCONNELL particularly, and others, to make it easier to vote and much harder to cheat.

I think we have done that. I thank Senator DODD and Senator MCCONNELL for listening to the concerns of Missourians who were outraged by what we saw in the November 2000 elections in St. Louis. We worked closely together for several months to close loopholes while taking every precaution to protect the rights of legal voters. That is what I think we have done.

One of the most important things we did was to agree to make it easier to vote and tougher to cheat. We ought to have statewide registration systems to eliminate the patchwork overlapping of county and city voter registration lists that have resulted in the kinds of multiple registrations and the kind of confusion that certainly bedevils some legitimate voters in St. Louis and elsewhere. No longer are we going to see people registered in four, five different places in any State. We need to find out where they are living and legally registered, and get the others off the rolls so those who are entitled to vote can vote and those who are not entitled to cannot.

Registration cards will now require prospective voters to declare under penalty of perjury that they are U.S. citizens—a very simple but very important affirmation. And individuals who register by mail will be required to provide identification when they vote the first time.

Mr. President, will this stop all vote fraud in St. Louis and all American cities? Of course not. But these changes in Federal law will put power back into State and local law enforcement officials so that they can clean up their rolls.

These are commonsense measures that will strengthen safeguards that protect the ballot box. To any of my colleagues who question the need to strengthen safeguards, just look at what happened in St. Louis. Why is it acceptable to require a photo ID to board an airplane, buy cigarettes, or alcohol, but to not require some kind of identification to carry out the most important of all of our civic responsibilities?

We have a responsibility to ensure that all legally cast votes are counted and an equal responsibility to ensure that legally cast votes are not diluted, downgraded, or nullified by illegal votes. We must strengthen confidence in our voting system. People must know that their votes are actually going to be counted and not discounted.

In the wake of the St. Louis vote fraud scandal, the Missouri Court of Appeals for the Eastern District issued its ruling on the lawsuit to keep the polls open late in St. Louis. As I mentioned earlier, the court's opinion accurately characterized the task now before the Senate, each of us. I quote:

> (C)ommendable zeal to protect voting rights must be tempered by the corresponding duty to protect the integrity of the voting process . . . (E)qual vigilance is required to ensure that only those entitled to vote are allowed to cast a ballot. Otherwise, the rights of those lawfully entitled to vote are inevitably diluted.

That is what we are about today. We are here to see that everybody has an opportunity to vote. We need to clean up the underbrush.

The distinguished Senator from Connecticut has taken a very strong position to ensure that those with special needs are accommodated, and this is landmark legislation to ensure that those who need special assistance or equipment can vote and can participate fully in our system.

Clearly, the steps that we are taking to regularize the registration system are going to go a long way to empower local election officials and State election officials to ensure that everybody who is entitled to vote has a chance to vote but to vote only once.

I look forward to working with my colleagues on the other important measures that will be brought before this body. I thank my colleagues who have worked so long and hard on crafting the bill that is before us, and I trust that we will wind up presenting, not only from this body but from conference with the House, a measure that will go to the President that will be signed into law to ensure that it is easier to vote and tougher to cheat.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, in a moment, I am going to share with my colleagues some endorsements of the underlying substitute bill, the Dodd-McConnell bill, along with others who are cosponsors of the substitute. There are numerous cosponsors of this bill, and I will submit momentarily the list of all those among our colleagues who are cosponsoring this legislation.

Secondly, I will submit a list of various organizations such as the NAACP, the AFL–CIO, Public Citizen, and a lot of other groups that are endorsing the bill as well, and I will submit for the RECORD letters that these organizations have offered on behalf of this legislation. The National Civil Rights Coalition is listing this as their No. 1 legislative priority this session of Congress.

I will not read them all, but the following organizations have endorsed the Dodd-McConnell bipartisan compromise on election reform and urge the Senate to act on it: AFL–CIO, the NAACP, the Carter-Ford Commission, Public Citizen, American Association of People with Disabilities, National Federation of the Blind, the United States Cerebral Palsy Associations, People for the American Way, the League of Women Voters, the National Coalition of Black Civic Participation, the Mexican American Legal Defense and Education Fund, Laborers' International Union of North America, U.S. Public Interest Research Group, Common Cause, and a variety of Secretaries of State, both Democrats and Republicans, not all of them but some have specifically sent letters endorsing the legislation.

Mr. President, I ask unanimous consent that some letters expressing why they think this bill is worthy of their support be printed in the RECORD.

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

WASHINGTON BUREAU, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, February 8, 2002.

Hon. CHRISTOPHER DODD,
Chair, Senate Rules and Administration Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD; The National Association for the Advancement of Colored People (NAACP), the nation's oldest, largest and most widely recognized grassroots civil rights organization, strongly supports the Dodd/McConnell/Schumer/Bond substitute to S. 565, the Equal Protection of Voting Rights Act.

The NAACP is well known for being a long and steadfast champion of the American promise of the right to vote. As such, I urge you, on behalf of the more than 500,000 NAACP members across the nation, to move as quickly as possible to pass this important legislation. The sooner comprehensive election reform legislation is enacted, the more assured we can be that every eligible American who wants to vote can, and that his or her vote will be counted.

The NAACP's support of the Dodd/McConnell substitute is based on the fact that it is a balanced, comprehensive response to the problems that have plagued our national electoral system for too long. As we saw in the most recent Presidential election, states and municipalities throughout our nation need to reform their election procedures. The Dodd/McConnell substitute would require that by the year 2006 all voting machines across the nation allow the voter to verify their choices and correct errors before the ballot is cast. The legislation would further require that, by the beginning of the year 2004, all states and local jurisdictions have provisional balloting, which would allow an individual whose eligibility is in question to vote and have the vote set aside pending verification. The legislation would also require states, by January, 2004, to keep computerized voting rolls to help ensure that a state-wide list of eligible voters is readily available on election day and to help cut down on fraud or abuse.

Furthermore, the Dodd/McConnell substitute contains provisions which would dramatically increase access to the voting booths for language minority and disabled Americans. While we do have a few lingering concerns regarding specific provisions currently in the Dodd/McConnell substitute, most specifically the provision requiring that first time voters who registered by mail provide a photo identification, we are committed to working with the you and the bill's other sponsors, as well as the rest of the Senate, to improve them and build upon the bill's obvious merits as we move forward.

While the NAACP applauds and appreciates the fact that the House has already acted on election reform legislation, the final version of the bill (H.R. 3295, the Help America Vote Act), falls short of fixing our electoral problems and, in some instances, represents a step backwards for civil rights laws. Furthermore, H.R. 3295 does not contain any provisions to address election fraud. Due to the fundamental flaws in H.R. 3295, the NAACP was forced to join dozens of other national civil, voting, consumer and disability rights organizations, as well as major national labor and religious organizations in opposing the legislation.

I urge you again, on behalf of the NAACP and every American who is concerned about the protection of our basic democratic right to vote, to pass the strongest election reform legislation possible. The Dodd/McConnell substitute is an aggressive, comprehensive solution to many of the problems that continue to plague our nation, and I hope that you will do all you can to see that it is enacted quickly.

Thank you in advance for your attention to this matter. Please let me know if you have any questions or if there is anything more I can do for you on this or any other matter.

Sincerely,

HILARY O. SHELTON,
Director.

AMERICAL FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington DC, January 18, 2002.

DEAR SENATOR: The AFL–CIO strongly urges you to cosponsor the Dodd-McConnell substitute to S. 565, the Equal Protection of Voting Rights Act, which was also sponsored by Senator Schumer, Bond, Torricelli, McCain, and Durbin.

The bipartisan substitute to S. 565 would help strengthen our democracy by requiring all states to meet three new minimum federal standards over the next few years. More specifically, this legislation would require states to create statewide voter registration lists and allow registered voters whose names do not appear on these lists to cast provisional ballots by 2004. It would also require States to use voting technology by 2006

that informs voters if they have voted for too many candidates, and allows all voters, including the disabled and language minorities, to verify their votes before casting them. In addition, this legislation would authorize federal funds to help states meet these new minimum standards and create a new commission to study various election reform issues, oversee federal elections, and disburse the new federal election reform funds.

Since the House recently passed an election reform bill (H.R. 3295) that does not include the minimum standards necessary to fundamentally improve our nation's election system, the 107th Congress will only be able to pass comprehensive election reform before the 2002 elections if the Senate acts quickly on the substitute to S. 565. While we have concerns with some of the language currently in this legislation, we are committed to working with the bill's sponsors to improve this proposal as if moves forward.

Last Election Day, countless citizens in Florida and throughout the country were denied their Constitutional right to vote by flawed voting equipment, erroneous voter registration records, and confusing ballots. While many lawfully registered voters were disenfranchised outright, others cast votes that ultimately were not counted. Now that the 2000 elections are over, we have a responsibility to use what we learned from this bitter experience to enact comprehensive election reform before the 2002 elections.

For all of these reasons, we strongly urge you to cosponsor the bipartisan Dodd-McConnell substitute to S. 565.

Sincerely,

WILLIAM SAMUEL,
Director, Department of Legislation.

AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES,
Washington, DC, February 11, 2002.

MEMBERS OF THE U.S. SENATE,
Washington, DC.

DEAR SENATOR: The American Association of People with Disabilities (AAPD), the largest national membership organization dedicated to promoting the economic and political empowerment of all people with disabilities, strongly supports the Dodd/McConnell/Schumer/Bond substitute to S.565, the Equal Protection of Voting Rights Act. On behalf of the nearly 30,000 nation-wide members of AAPD, I urge you to support this important legislation and see that it is brought before the full Senate and passed without any weakening amendments. Our support for moving this legislation to the Senate floor is conditional upon being certain that the photo i.d. requirement will have added to it an attestation allowing voters with disabilities and others who lack a photo i.d. or utility bill to confirm the validity of their registration. We feel that this important addition makes it easy to vote and hard to steal an election.

AAPD has worked to ensure that all members of the disability community cast their votes and have their votes counted. The 2000 presidential election exposed many problems in the nation's electoral system. Millions of votes were either unable to cast their votes or have their votes counted. the sooner comprehensive election reform is passed, the sooner more voters with disabilities will be able to cast their vote with the confidence that their vote was cast to their wishes and that their vote will indeed be counted.

To protect the millions of voters with disabilities and others, the substitute provides for minimum national standards in three essential, but limited areas. Including provisional ballots, statewide voter registration lists, and standards that require voting machines to inform the voter of an error and give the voter the opportunity to correct it. Such standards would also protect against high voting machine error rates.

We are particularly pleased that the substitute's standards offer millions of voters with disabilities the opportunity to cast a secret and independent ballot for the first time and that the legislation provides the states and counties with the necessary funding to make this happen. We are also pleased that the definition of disability, in the substitute bill, includes people with physical, sensory, and mental disabilities.

While AAPD is pleased that election reform has already been addressed in the House, the final version of H.R. 3295, the Help America Vote Act, falls short in fixing electoral problems for voters with disabilities. Due to the fundamental flaws in H.R. 3295, AAPD was forced to join with other national disability, civil rights, and voting groups to oppose this legislation.

I urge you on behalf of the 56 million Americans with disabilities to pass the strongest election reform bill possible. The Dodd/McConnell substitute is that bill and I hope you will do all that you can to see that it is enacted quickly.

Thank you, in advance, for your attention to this matter. Please let me know if you have any questions, or if there is anything more I can do for you on this matter.

Sincerely,

ANDREW J. IMPARATO,
President & CEO.

NATIONAL FEDERATION OF THE BLIND,
Baltimore, MD, February 12, 2002.

Hon. CHRISTOPHER DODD,
Chairman, Senate Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the strong support of the National Federation of the Blind (NFB) for the Equal Protection of Voting Rights Act of 2001 (S. 565), including language we requested to address the needs of people who are blind. Thanks to your efforts and understanding, this legislation points the way for blind people to vote privately and independently at each polling place throughout the United States.

While the 2000 election demonstrated significant problems with our electoral system, consensus regarding the solution has been much more difficult to find. Nonetheless, it is clear that installation of up-to-date technology will occur throughout the United States. This means that voting technology will change, and devices purchased now will set the pattern for decades to come. Therefore, requirements for nonvisual access must be an essential component of the new design. S. 565 will make this happen.

With more than 50,000 members representing every state, the District of Columbia, and Puerto Rico, the NFB is the largest organization of blind people in the United States. As such we know about blindness from our own experience. The right to vote and cast a truly secret ballot is one of our highest priorities, and modern technology can now support this goal. For that reason, we strongly support S. 565 now pending in the Senate.

Sincerely,

JAMES GASHEL,
Director of Governmental Affairs.

PEOPLE FOR THE AMERICAN WAY,
Washington, DC, February 12, 2002.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: On behalf of the more than 500,000 members and supporters of People For the American Way (PFAW), we write to express our strong support for the Dodd/McConnell/Schumer/Bond substitute to S. 565, the Equal Protection of Voting Rights Act.

PFAW is especially pleased with the strong provisions of this bill which would require each state to meet a set of minimum standards when it comes to voting equipment, the training of poll workers, language minority assistance, provisional ballots, and accessibility for the disabled. We are also pleased that S. 565 contains strong language providing for provisional voting, for the posting of critical election information at polling places on Election Day and for enforcement by the Department of Justice.

We are committed to working with you, and other members of the Senate, to strengthen the bill. Specifically, we want to ensure that first time voters who have registered by mail have the maximum numbers of options available to properly identify themselves to election officials. We would especially support efforts to allow these first time voters to attest to their identity should they not have any other form of identification.

We applaud you for your tireless work in moving election reform to the top of the Congressional agenda, and your leadership and vision of this bipartisan legislation that would facilitate a full democratic participation in elections. We especially want to thank you for your commitment to work with PFAW and our allies in the civil rights, voting rights, labor, and disability communities to make necessary improvements to achieve the full potential of this legislation. We look forward to working with you throughout the legislative process to ensure that comprehensive election reform legislation is enacted.

Sincerely,

RALPH G. NEAS,
President.

STEPHANIE FOSTER,
Director of Public Policy.

UNITED CEREBRAL PALSY ASSOCIATION,
Washington, DC, February 12, 2002.

Senator CHRISTOPHER J. DODD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD: On behalf of UCP, our more than 100 affiliates in over 40 States and millions of voters with disabilities, I want to congratulate you on your historic leadership in crafting the Senate bipartisan agreement on election reform.

We are deeply appreciative of your efforts to ensure that—by enacting this legislation—Americans with disabilities will have equal access to the polling place and the voting booth for the first time in history. We are proud and pleased, therefore, to lend our full support of the bipartisan substitute amendment to S. 565, which, it is our understanding, you will bring to the floor as soon as possible so that it can be debated and approved by the full Senate. We believe swift passage of this legislation is essential to strengthening the basic tools of our democracy at a time when the attacks of September 11th remind us all of how vigilant we must be in safeguarding our most basic freedoms.

The Senate bipartisan measure sets vitally needed national minimum voting rights standards. They will let every voter know that regardless of where they live neither their ethnicity nor disability will prevent them from entering their polling place and casting their ballot in privacy knowing it will be counted fairly and accurately. The provisions requiring that new voting systems be accessible and the $100 million grant program to make polling places accessible will go far to realize the full promise of the ADA

to make Americans with disabilities first class citizens of our democracy. This is a critical civic lesson for America and the rest of the world as well.

We believe, however, some changes are needed in the substitute amendment to ensure that election reform goes forward in as fair and effective a manner as possible. The first of these relates to the role, which the Access Board will play in providing policy direction to the newly created federal election accessibility grant program. As drafted, the substitute amendment provides that the Attorney General will carry out the grant program consistent with policies and criteria for the approval of funding applications set forth by the Access Board. Responsibility for administering this grant program—as with the other election reform grants established by this bill—will transfer from the U.S. Justice Department to the new Election Administration Commission once it is fully functional. For clarity and continuity sake, we believe that language needs to be added to the bill to make clear that the policies and criteria set by the Access Board for the election grant program shall guide its implementation both at DOJ and the Election Administration Commission.

We also believe that changes need to be made to the provision in the substitute that would require first time voters who register by mail to produce a photo identification card when they show up at the polls or to send a copy of one or other verification of their identity by mail if they vote by secret ballot. While we recognize that this provision is meant to prevent voter fraud, we believe it would prove largely unworkable and therefore, ineffective in doing so. Moreover, we are extremely fearful that this provision would have a significant chilling effect on potential voters, including those with disabilities as well as language and ethnic minorities. Those with disabilities and others often lack formal identification cards through no fault of their own. They must not be denied their fundamental right to vote. Over half the States ensure the accuracy of the balloting process by having each voter sign a statement attesting—under penalty of law—to both their identity and eligibility to vote. This is a far more straightforward and fairer way to ensure the sanctity of elections. We urge you to support the inclusion of the same procedure in the substitute amendment.

As with any living document we believe that there may be changes that could be made to it that either significantly strengthen or undermine its basic intent. We want to urge you as its chief author and all others in the Senate to consider each amendment that may be offered very much in this light and we will keep you informed of our views on all such proposed changes as the Senate debate proceeds.

Thank you once again for your extraordinary leadership.

Sincerely,

KIRSTEN A. NYROP,
Executive Director.

THE NATIONAL COMMISSION
ON FEDERAL ELECTION REFORM,
February 12, 2002.

Senator CHRIS DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Senator MITCH MCCONNELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR CHRIS AND MITCH: In 2000 the American electoral system was tested by a political ordeal unlike any in living memory. The American political system proved its resilience. But we must think about the future. We all saw that the ordinary institutions of election administration in the United States just could not readily cope with an extremely close election and had many other weaknesses.

That is why we agreed to lead the foundation-funded National Commission on Federal Election Reform. We issued our report last year and the results have been gratifying. President Bush welcomed the report and endorsed our approach. He has allocated money for election reform in his FY 2003 budget proposal. State and local officials around the country, including many conscientious election administrators, have been galvanized to action. Two months ago the House of Representatives overwhelmingly passed a bipartisan bill on election reform sponsored by Bob Ney and Steny Hoyer.

The fate of federal election reform now rests with you and your colleagues in the Senate.

We were glad to learn that both of you have worked with some of your colleagues to fashion a truly bipartisan bill for the Senate. Your staffs have asked us to comment on the relation of this effort to the Commission's goals.

Naturally your bill was a compromise. Naturally interest groups on both sides of the political spectrum find some things in it they dislike. If we had been writing the bill, we might have made some different choices too, but on the whole it is a good bill and a real improvement over the status quo.

Your bill is clearly a reasonable bipartisan vehicle for moving the legislative process forward. Its core is sound. It addresses the right issues, such as statewide voter rolls and provisional balloting. If it passes the Senate it will go to conference with the Ney-Hoyer bill. There are some aspects of Ney-Hoyer we like better. But there are also some aspects of Dodd-McConnell that have improved on the House approach. So, starting from good foundations on both sides, a conference committee should be well positioned to bring a strong bill back to each House for final approval.

The critical issue now is to get this bipartisan bill to the floor of the Senate as soon as possible. All over the country, state legislatures and county administrators are aware that federal action may be imminent. The states should continue to have the primary responsibility for administering elections, but do so in a national framework. Many of these legislators and officials are now understandably frozen about what they should be doing.

If the 107th Congress passes a bill founded on the current House and Senate bipartisan approaches, you will have achieved a landmark accomplishment. Such a law will touch every county in America—and for the good. With the exception of the civil rights laws of the 1960s, such a law could provide the most important improvements in the democratic election system in our lifetimes.

Sincerely,

GERALD R. FORD,
Honorary Co-Chair.
ROBERT H. MICHEL,
Co-Chair.
SLADE GORTON,
Vice-Chair.
JIMMY CARTER,
Honorary Co-Chair.
LLOYD N. CUTLER,
Co-Chair.
KATHLEEN M. SULLIVAN,
Vice-Chair.

PUBLIC CITIZEN,
Washington, DC, January 18, 2002.

Senator CHRISTOPHER DODD,
Chairman, Senate Rules and Administration Committee, U.S. Senate, Washington DC.

DEAR SENATOR DODD: On behalf of Public Citizen, I am writing to express our strong support for taking up your election reform bill, S. 565 (substitute amendment) as quickly as possible after the Senate reconvenes next week. This bipartisan legislation, which you have done so much to forge, constitutes a major advance on the road to full democratic participation in elections. It is vastly superior to H.R. 3295, the House-passed bill because it establishes strong national voting standards, promotes coherent state and local planning for voting improvements, and includes necessary federal monitoring and enforcement.

As we work with you and the other sponsors of the bill, we are gratified by your commitment to us and other members of the Leadership Conference on Civil Rights coalition to work together on the Senate floor to pass a few needed improvements in the legislation. Such changes will remove unnecessary ambiguity, ensure that the bill's goals are fully achieved, and strengthen the political position of the bill as it heads for Conference.

Thank you Senator once again for your dedication to this fundamental legislation for our democracy.

Sincerely,

JOAN CLAYBROOK,
President.
FRANK CLEMENTE,
Director, Congress Watch.

STATEMENT OF REBEKAH HARRIMAN—EXECUTIVE DIRECTOR—COMMON CAUSE/CONNECTICUT

Common Cause in Connecticut is a nonpartisan citizen's lobby dedicated to ensuring that government clean, open, and accountable. Central to this mission is our belief that our democracy is participatory and inclusive to all Americans. It is entirely fitting that we come together on this day, the day the country observes the remembrance of the great Reverend Martin Luther King Jr., to show our strong support for The Equal Protection of Voting Rights Act, sponsored by Senator Dodd.

Over forty years ago, thousands of Americans dedicated and gave their lives to a movement that fought to end discrimination and ensure that every American was afforded the opportunity to vote without prejudice. Just over one year ago, hundreds of thousands of Americans were unjustly turned away from the polls or were otherwise locked out of our democracy when their votes were not counted due to faulty voting procedures. We must make every effort to ensure that this injustice does not occur again in America. The Equal Protection Voting Rights Act is strong legislation that will help ensure that every American's vote counts.

Common Cause/CT supports The Equal Protection Voting Rights Act because it would require that each state meet a set of minimum standards when it comes to voting equipment, the training of poll workers, absentee and bilingual ballots, provisional ballots, overseas voters, and accessibility for the disabled.

This legislation would be essential in Connecticut, where our voting equipment must be evaluated. In the year 2000, thousands of votes were invalidated in the presidential election because many of our states' voting systems are outdated, inconsistent, and inaccurate. Common Cause/CT believes it is essential to replace our nearly extinct voting machines and that we strive to have a uniform mechanism for voting in every precinct in Connecticut.

Another important facet of the legislation is the mandate that states compile a statewide voter list. Without a statewide centralized voter registration system that allows

for the accurate and timely exchange and updating of information, too many eligible voters are turned away from the polls each election because their name was either failed to be placed on their precinct list by election day or was purged from the rolls in a careless attempt to clean up an inefficiently maintained list. The technology and the administrative know-how already exist in the state and mandating that all jurisdictions participate in the system would greatly reduce the number of Connecticut voters disenfranchised in this way.

The Equal Protection Voting Rights Act also sets an important standard by requiring states to implement provisional balloting. This would ensure that no registered voter in Connecticut is ever turned away from the voting booth.

We believe that every possible step must be taken to ensure that the election process is fair, accurate, and accessible to every voter in the country. We believe that every option must be looked at to afford the most citizens possible the ability to vote with ease and precision. The Equal Protection Voting Rights Act is the type of election reform that is essential to this process and we commend Senator Dodd for his leadership in this crucial fight for justice and equality.

THE LEAGUE OF WOMEN VOTERS
OF THE UNITED STATES,
Washington, DC, February 11, 2002.

Re Election Reform

MEMBERS OF THE U.S. SENATE: The League of Women Voters urges you to support the bipartisan election reform bill developed by Senators Dodd, McConnell, Bond and Schumer. The legislation will be offered as a substitute to S. 565. While the substitute is not perfect, it contains the key elements needed to improve our nation's election systems.

The 2000 election demonstrated that basic reforms are needed at the federal, state and local levels to protect voters and to improve election administration. It is also clear that it is time for the federal government to pay its fair share of the costs of administering federal elections.

The Dodd-McConnell substitute provides for basic national standards in vital, but limited, areas. It provides substantial federal funds for election reform efforts. And it provides a blueprint on which federal, state and local efforts can be built.

To protect voters and improve administration, the substitute provides for minimum national standards in three areas. First, voting systems standards will assure that voters can verify and correct their ballots, as well as be notified of overvotes. These standards also protect against high voting machine error rates and enhance access for persons with disabilities. Second, a national standard will assure that voters can receive provisional ballots. This fail-safe system means that if a voter's name is not found on the registration list at the polls, or if other problems occur, the voter can still cast a ballot that will be counted if the voter's eligibility is confirmed. Third, statewide computerized voter registration lists will be required. This facilitates removal of duplicate registrations across jurisdictions, provides greater assurance that names will be on the rolls, and streamlines administration while combating possible fraud.

The substitute provides funding through state grants programs that will be developed with public involvement. Funds are provided not only for meeting standards, but also for other vital areas of election administration, including poll worker training and providing access to the polls for persons with disabilities. The substitute sets up a new federal commission that can provide effective guidance, while Justice Department enforcement of voter protection laws, such as the Voting Rights Act, is maintained.

While the substitute is a strong bill, it contains a photo ID requirement that will result in discrimination and create real administrative problems at polling places. Though the requirement is described as an anti-fraud device, effective alternatives exist to meet anti-fraud objectives that will not undermine voter participation through absentee balloting by persons with disabilities, seniors and others. We strongly urge you to correct this provision. We are also concerned that the so-called ''safe harbor'' provisions of the bill will have unintended, deleterious consequences.

The League of Women Voters believes that the Senate must act expeditiously on this important topic. We urge you to move ahead with the Dodd-McConnell substitute, which is clearly preferable to the House-passed bill in setting a workable structure for reform and creating an effective election commission.

America deserves an election system that will protect the most basic and precious right of all citizens in a democracy—the right to vote. Each citizen's right to vote, and to have that vote fairly counted, is at stake.

CAROLYN JEFFERSON-JENKINS,
President.

SECRETARY OF THE STATE,
STATE CAPITOL,
Hartford, CT, January 7, 2002.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR DODD: Thank you for your leadership in the area of election reform and for all of your hard work in developing your bi-partisan compromise on election reform. I have reviewed the language in S. 565 and I am extremely pleased with its contents, particularly with the statewide voter registration system and voting machine requirements. The federal funding provided for those and other purposes will greatly benefit Connecticut and all the states.

At the close of the 2001 legislative session, the Connecticut Legislature established a Voting Technology Alternatives Commission to study and make recommendations regarding voting technology issues. The federal guidelines and assistance provided for in S. 565 will help shape both the Commission's final recommendations and any state legislative action in this area. As a member of this Commission, I have already provided all the members of the Commission a copy of S. 565 for their review.

In addition, I will be attending the National Association of Secretaries of the State winter meeting in Washington D.C. from February 7–10 and hope to have the opportunity to meet with you. My Office will contact your staff with more details. I look forward to working with you on the important issue of election reform and I wish you well in securing its passage.

Sincerely,

SUSAN BYSIEWICZ.

SECRETARY OF STATE,
STATE CAPITOL,
Atlanta, GA, January 18, 2001.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD: I am pleased to write to express my support for S. 565 and for your efforts, and that of Senators McConnell, Schumer, Bond and Torricelli, to craft strong, effective and bipartisan election reform legislation.

As you are aware, Georgia has moved to the forefront among states in the drive to acquire and deploy election systems that are more accurate, more convenient and more accessible and disabled voters. With the passage of our own SB 213 last year, Georgia became the first state in the nation to mandate a modern, uniform voting system for every county and every community. This year, Governor Roy Barnes has endorsed our ambitious plan to acquire and deploy new generation electronic voting equipment (DRE) in every Georgia county in time for the November 2002 general election.

While Georgia election officials and policymakers are strongly united behind our initiative to improve voting equipment, critical to our efforts is the expectation that the federal government will be a helpful partner in advancing this goal, and will make available substantial funding to help pay for these improvements. In that regard, we were heartened by House passage of the Ney-Hoyer election reform package, and were then extremely pleased to learn that you, ranking member McConnell and others had reached bipartisan agreement on S. 565.

I believe your legislation provides an excellent platform and roadmap for election reform which, as you know, must primarily be executed at the state and local level. The funding provisions of S. 565 are outstanding, and would enable states to make much needed investments in new voting and registration systems. I also strongly support your emphasis on assuring that blind and disabled voters have a full opportunity to cast their ballots independently and without assistance. The bill's emphasis on assuring that each state has procedures under which a provisional ballot can be cast is also welcome.

While there are areas of the bill where I would prefer some modifications, (as would be the case with nearly any legislation of such magnitude and scope) it is my belief that S. 565 represents a giant step forward towards reaching our goal of designing and deploying election systems that assure that the electoral choice of each and every voter will be accurately counted.

Thank you for your steadfast leadership in moving election reform legislation forward in the United States Senate and I look forward to continuing to work with you to achieve our common goals.

With best wishes,

Sincerely,

CATHY COX.

OFFICE OF THE
SECRETARY OF STATE,
Carson City; NV, January 25, 2002.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD: On behalf of the citizens of Nevada, I would like to express my support for Senate Bill 565, which I feel is an important step in the election reform process. I am especially impressed with the bipartisan support the bill has received, and believe wholehartedly in many of the provisions called for in S. 565, particularly its focus on civil rights and accessibility issues. Moreover, S. 565 includes an impressive financial commitment from the federal government that will help meet the mandates outlined in the bill, thereby allowing Nevada counties to update antiquated equipment with the latest technology without bearing the enormous cost of undertaking such a project on their own.

I would like to personally thank you for asking for my opinion and thoughts on the legislation. I believe very strongly that as secretaries of state, it is important for us to work as closely as possible with members of Congress as they seek to enact real and meaningful federal voter protections and reform. I hope that as deliberations progress in

the House and Senate, secretaries of state will continue to be asked by Congress to add their important voices and experience to the discussions.

The bipartisan leadership demonstrated by you and Senators McConnoll, Schumor, Bond and Torricelli and other members of the U.S. Senate in crafting a package that would be a positive step in the election reform process is very encouraging. The principles outlined in the ''Equal Protection of Voting Rights Act'' are certainly a step in the right direction, and I recognize S. 565 as important legislation that will better ensure the integrity of the election process.

I have long been an advocate of election reform. In each of the past three sessions of the Nevada State Legislature, I have promoted legislation that would create a statewide system of voter registration. This statewide system would allow the Secretary of State's office to act as a central repository for voter registration rolls, and ease the process of clearing those rolls of duplicate names, deceased persons and others who are ineligible to vote. Although this proposal would have dramatically reduced the potential for voter fraud, it has failed in every legislative session in which it was introduced. Likewise, my calls to improve the absentee balloting process, especially for our overseas military personnel, have faced strong resistance from state legislators. Senate Bill 565 parallels many of my efforts and may motivate Nevada lawmakers to pursue election reform for the Silver State.

Again, thank you for your leadership and efforts in bringing this important legislation to the forefront of deliberations in the U.S. Senate. I look forward to continuing to work closely with you and your colleagues to achieve our common goal of election reform measures that will truly enhance the voting process for all Americans

Respectfully,

DEAN HELLER,
Secretary of State.

Mr. DODD. I know there are discussions going on regarding a couple of proposals to try and work out some things, but I invite my colleagues, who may be engaged in other activities in their respective offices, if nothing particularly important is happening, and if they have a proposal they would like to have heard on on this bill, to come on over. We are open for business on amendments. We will consider them on either side. I do not know of many we have, but there may be some. I have talked to some colleagues who have some questions about the bill. If they do have questions, I invite them to come to the Chamber, and I will try to address them in colloquies to either alleviate their concerns—or heighten them, I suppose, depending upon my answer to their question.

We would like to get this bill done. I know there are other matters. The leader, I know, wants to bring up the energy bill. I think that is the next item on the agenda. Given the amount of work we have put into election reform—and, again, I thank immensely my colleagues from Kentucky, Senator MCCONNELL; Missouri, Senator BOND; New York, Senator SCHUMER; New Jersey, Senator TORRICELLI; TRENT LOTT, and TOM DASCHLE, the majority leader. A lot of work and a tremendous amount of effort has gone into this effort over many hours. Obviously, we are not there yet. We still have to go to a conference with the House. Our fervent hope is to get this done as soon as we can.

With the $3.5 billion that we provide in this bill and the $1.2 billion the President has already put in his budget, there is every reason to believe we could actually get resources back to our States and our localities to improve the election systems for the elections this fall.

There are a lot of other provisions in this bill that do not become effective for several years down the road, but for our Secretaries of State and our registrars of voters across the country who are anxious to get some financial help on these matters, if we get this bill done, get the conference report done, and then get a Presidential signature, which I think we can get if we work out this legislation, then there is every good reason to believe those resources could begin flowing to our States even this year.

I do not need to remind anyone in this Chamber, or anyone in the other body, that the events of September 11 and ensuing events have overwhelmed, obviously, our attention, but it was only 14 months ago that this Nation was fixated on one of the worst election debacles in the history of the country. It is not in any way to question the outcome. We all support the outcome uncategorically. Certainly, watching day after day, week after week—and for the Presiding Officer, this was not just an intellectual exercise.

As the distinguished junior Senator from the State of Florida, he knows painfully how long and how difficult this process was for his own constituents, as not only the Nation but the world was fixated on his State. I have said in this Chamber on numerous occasions, it was an unfair fixation. There were plenty of other places around the country where the problems were identical to the problems that the people of Florida went through, but because of the nature of the electoral college, the attention was focused on Florida.

I think the American public—in fact, every survey I have seen—believes our election system is in desperate need of repair. We lecture a good part of the world about how to conduct elections, how important it is to vote, how important democratic institutions are. We realized what happened last year. According to nonpartisan analyses from Caltech, MIT, the General Accounting Office, the Carter-Ford Commission, along with many other groups around the country who analyzed the elections nationwide, our system is broken. It is in serious shape and it needs repair. That is not an adverse reflection on the thousands and thousands of people all across the country who worked very hard, under very difficult circumstances, to see to it that people had the right to vote and their votes counted. We also painfully know that when it comes to allocating resources at the State level, this is a very difficult budget item; that there are always other items that seem to have more public support than the issue of better voting machines or better equipment or training for poll watchers and the like.

So painfully, despite all of the notoriety about the 2000 election last year, only three States have acted, the State that the Presiding Officer represents so ably, the State of Florida, and the State of Georgia—and a great tribute should go to Cathy Cox, by the way, the Secretary of the State of Georgia. And I want to thank our two colleagues from Georgia, MAX CLELAND and ZELL MILLER, who hosted the Rules Committee's field hearing in Atlanta, GA. Also, the Governor could not have been more gracious. To their great credit, they really stepped up to the plate. Georgia, Maryland and Florida are leading the country today in some of the most innovative ideas on election reform.

Unfortunately, other States did not. There is one other State that did, but after all the events of last year those are all the States that rose to the occasion.

So, again, I invite my colleagues to come on over. We would like to finish this bill. I am not suggesting we go to third reading in the next few minutes, but I invite Members who have amendments to come and give us a chance to consider them, accept what we can of various proposals, debate others, vote on them, if necessary, but move the process along.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I will use my leader time to make a statement at this time.

The PRESIDING OFFICER. The Senator has that right.

(The remarks of Mr. DASCHLE are printed in today's RECORD under ''Morning Business.''

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak for up to 15 minutes as if in morning business.

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

(The remarks of Mr. SPECTER are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the majority leader has asked that I announce there will be no more rollcall votes today. Senator DODD and Senator MCCONNELL have, I will not say begged but they sure have asked people to come over and offer amendments. We need to finish this bill. We have so much more that needs to be done. This is an extremely important bill, one of the most important bills to have come through this body in a long time. These two men have spent not hours or days but weeks and weeks of their time trying to get the bill here. We need to get the bill finished tomorrow.

Those with amendments need to bring them over. We are going to start early in the morning. If they do not, I will join with the managers of the bill to go to third reading. It is not fair to everyone with so much to do to have to wait around for amendments.

There will be no more rollcall votes tonight.

The managers have indicated they will try to clear some amendments tonight that will require no more rollcall votes. These are two of the most experienced managers we could have in the Senate, but they need something to manage. Right now there is a lot of talk about offering amendments, but nothing is happening.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 2688

Mr. DODD. Mr. President, I ask unanimous consent that Senate amendment No. 2688, the bipartisan substitute, be agreed to; that the motion to reconsider be laid upon the table; that the bill as thus amended be considered as original text for the purpose of further amendment, and provide further that no points of order are waived by this agreement.

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

The amendment (No. 2688) was agreed to.

AMENDMENT NO. 2874

Mr. DODD. Mr. President, on behalf of myself and the distinguished Senators from Washington, Ms. CANTWELL and Mrs. MURRAY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Ms. CANTWELL, for herself, Mrs. MURRAY, and Mr. DODD, proposes an amendment numbered 2874.

Mr. DODD. I ask unanimous consent that reading of the amendment be dispensed with.

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

The text of the amendment is as follows:

(Purpose: To treat absentee ballots and mail-in ballots in the same manner as other paper ballot voting systems under the voting systems standards and to ensure that voters are informed how to correct voting errors before a ballot is cast and counted)

On page 5, strike lines 4 through 14, and insert the following:

(B) A State or locality that uses a paper ballot voting system, a punchcard voting system, or a central count voting system (including mail-in absentee ballots or mail-in ballots), may meet the requirement of subparagraph (A) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

Mr. DODD. I will defer to my colleague from Washington to take a few minutes, if she would like, and describe what this amendment is and what it does. I am informed by my friend from Kentucky that this is an amendment to which we can agree. The staffs have worked on this amendment. But why doesn't the Senator from Washington take a few minutes. I am glad we could work this out with her and others in her State.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I appreciate Senator DODD's strong commitment to this legislation. Together with Senator MURRAY I also appreciate his efforts here today to work with us on language that preserves the ability of States like ours, that have high volumes of absentee and mail-in voters, to continue to use those mail in systems.

This amendment adds to the voting system standards section of the legislation to make sure that the ability of voters to vote by mail-in and absentee ballot is not limited by our efforts to improve the ability of other voters to cast accurate ballots in the polling place.

This system is very important. The voters of my State are proud of this system and extremely committed to seeing it continue. In addition, I believe the voting by mail adequately protects against the types of problems encountered in Florida because in these elections voters take their time in casting their votes and are able to consult instructions and other ballot information.

Voters in my State have made it clear that they are willing to work with the system but want to make sure mail-in ballots and absentee ballots are preserved. This amendment preserves the ability to vote by mail while also setting forth new safeguards that will better inform voters how to correctly fill out their ballot and ensure their votes are counted.

I thank the leaders of this legislation for their support for this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. The amendment of the Senator from Washington is agreed to on this side of the aisle. I am aware of no opposition.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2874) is agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, the Senator from New York is about to be heard. As the majority whip pointed out, there will be no further rollcall votes tonight, but Senator SCHUMER has an opening statement he would like to make. There is an effort right now to reach agreement on two or three amendments by the Senator from New York. During his remarks on the bill, my hope is we might clear these other three amendments. I think that would be it for the evening, if we can do that.

Mr. MCCONNELL. I say to my friend, we are looking at the amendments now and hope we can achieve that goal shortly.

Mr. SCHUMER. Mr. President, I rise to speak on this legislation with which, as many of my colleagues know, I have been long involved. The legislation we consider today is one of the most important pieces of legislation we will consider all year. Congress has a responsibility to ensure that every eligible American who goes to vote gets to vote and that every vote cast counts.

What we have learned from the 2000 elections is that as strong as our democracy is, we have been lax in the upkeep of the actual mechanism that drives it, our voting systems. That is why we have come together across party lines to pass this election reform legislation.

I thank our chairman, Senator DODD, for his leadership in bringing this critical legislation to the floor. He has been tireless in his devotion to getting it done.

I also commend the ranking member of the committee, Senator MCCONNELL, for his commitment to improving our Nation's election systems as well. Senator MCCONNELL and I had introduced a bill that in many ways is part of this ultimate bill. I am proud to be part of the effort, along with Senators DODD and BOND and TORRICELLI and MCCAIN and DURBIN, to make this happen.

The right to vote, as we all know, is at the very heart of our democracy. It is a right that, throughout our history, brave men and women have risked their well-being, their very lives, to exercise. It was for the right to vote that American patriots fired the shots heard around the world at Lexington and Concord, thereby initiating the Revolutionary War in 1775. It was for the right

to vote that Susan B. Anthony bore arrest, trial, and conviction after she challenged laws barring women from the polls by casting a ballot in Rochester, NY, in 1872.

It was for the right to vote that Dr. Martin Luther King, Jr., and other civil rights activists—including my former colleague in the House, Congressman JOHN LEWIS—marched from Selma to Montgomery, AL, in 1965.

Blood continues to be spilled over our democratic ideals. The core reason for the September 11 attacks that so devastated this Nation, and particularly my home State and city, is that terrorists hate our democracy: a democracy where all Americans—regardless of religion, gender, race, economic status, physical ability—have a say in how our Government is run; a democracy where every person is equal, and because some people are in some high theocratic or political position, they don't have any more right to determine the outcome of an election than our average person.

We in the United States have a special obligation, a duty, to ensure the right to vote—not only to honor those who sacrificed so we have this right but to ensure that Americans today and in the future will be fully able to exercise it.

First and foremost, we must have voting machines and systems that are accessible to people, that are easy to use and that work. To my mind, the most important provisions in this bill are the grant provisions that will provide $3.5 billion to states and localities to meet federal standards and to update and modernize their voting systems. Federal funds for the improvement of old voting machines is something that I have been talking about ever since the 2000 election, and was something that I included in my election reform bill last year that Senator MCCONNELL and I sponsored.

I first voted in 1969, and I sued the same type of machine when I voted in 2000 in spite of all the technological changes in the intervening years. Just because we are the world's oldest democracy does not mean we have to use the world's oldest technology that is simple.

The problem does not end with the machines, although in my State that is a big problem. Throughout this nation there are inadequately maintained registration lists, confusingly designed ballots, and phone lines that were so busy that voters could not get through to conform their registration status.

In my home state of New York, in November 2000, people waited in line for hours to vote. Many voters—those who could not afford to be late for work or that had to get home to their children—waited in line and ultimately left the polling place without being able to participate in one of the most critical and closest elections of our time.

You should have seen the look on the faces of these people, some of them voting for the first time, doing good for the country, many of them in their work clothes, and the look of disappointment as they waited and waited and then could not vote.

Others waited and waited only to be confronted with the cruel reality that the voting machines in their precinct were broken or that the polling place had run out of emergency ballots. Again, the looks on their faces had a lasting impression on me.

Voting should be accessible, accurate and speedy—in all places, all the time. You cannot say, well, it is good most of the time because the right to vote is so precious. The grant programs included in this bill will allow states and localities to do just that.

This bill also includes standards for the states and localities—which I believe will be a great improvement in the ability of people to vote across this nation.

To Wit:

The bill sets voting system standards that will allow voters to check their ballots and correct errors, that will make voting more accessible for the disabled and non-English speakers, and that requires voting systems to meet the error rate set by the FEC;

The bill establishes provisional voting in every state, which will insure that every person who goes to the polls has the opportunity to cast a ballot;

The bill establishes important anti-fraud provisions, including a statewide computerized voter registration database that will allow poll workers to have the information that they need in front of them on election day.

I think that these provisions make a lot of sense. They will help people to have greater access to the polls while at the same time decreasing fraud in our voting systems.

The final critical piece of this legislation is the establishment of an independent election agency. This is something that I have supported, and that I included in the election reform bill that I introduced with my colleague from Kentucky, Senator MCCONNELL.

The bipartisan four-person Commission will oversee the grants programs and the implementation of the federal standards, will provide information to the states and to the public about federal elections, and will keep a watchful eye on our voting systems so that we are continuously updating them. With the Commission in place, hopefully we will never face the situation that we faced in the 2000 elections again.

Like most bipartisan legislation, this bill is a compromise—but I believe that it is a good compromise that is based on core principles that we all share. It will allow us to improve our voting systems and make our election process better.

The right to vote is a sacred trust—a covenant—between the government and the people. I urge all of my colleagues to vote for this bipartisan election reform legislation, so that we can give the American people the election system that they and our grand democracy deserve.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 2871 AND 2873, EN BLOC

Mr. SCHUMER. Mr. President, I have two amendments which I would like to be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes amendments numbered 2871 and 2873, en bloc.

The amendments are as follows:

AMENDMENT NO. 2871

(Purpose: To specify how lever voting systems may meet the multilingual voting materials requirement)

On page 8, strike lines 5 through 18, and insert the following:

(B) EXCEPTIONS.—

(i) If a State meets the criteria of item (aa) of subparagraph (A)(i)(I) with respect to a language, a jurisdiction of that State shall not be required to provide alternative language accessibility under this paragraph with respect to that language if—

(I) less than 5 percent of the total number of voting-age citizens who reside in that jurisdiction speak that language as their first language and are limited-English proficient; and

(II) the jurisdiction does not meet the criteria of item (bb) of such subparagraph with respect to that language.

(ii) A State or locality that uses a lever voting system and that would be required to provide alternative language accessibility under the preceding provisions of this paragraph with respect to an additional language that was not included in the voting system of the State or locality before the date of enactment of this Act may meet the requirements of this paragraph with respect to such additional language by providing alternative language accessibility through the voting systems used to meet the requirement of paragraph (3)(B) if—

(I) it is not practicable to add the alternative language to the lever voting system or the addition of the language would cause the voting system to become more confusing or difficult to read for other voters;

(II) the State or locality has filed a request for a waiver with the Office of Election Administration of the Federal Election Commission or, after the transition date (as defined in section 316(a)(2)), with the Election Administration Commission, that describes the need for the waiver and how the voting system under paragraph (3)(B) would provide alternative language accessibility; and

(III) the Office of Election Administration or the Election Administration Commission (as appropriate) has approved the request filed under subclause (II).

AMENDMENT NO. 2873

(Purpose: To require States and localities to mail a voter registration form to individuals who cast provisional ballots that were not counted)

On page 13, strike line 22, and insert the following: ''is not counted (such notice shall include the State's voter registration form); and''.

Mr. SCHUMER. Mr. President, these two amendments—both technical in nature, and I believe have been agreed to by the Senators from Connecticut and Kentucky, the majority and minority managers on this bill—deal with two issues. One deals with those States with lever issues, which my State of New York has, and what it allows a State or locality with lever machines to do is apply to DOJ for an exemption that will allow it to meet the linguistic accents requirement in title I. The exemption allows the State or locality to place any new languages that it is required to provide under this act under the DREs, instead of on the lever machines, to place them on the new machines if the State or locality shows that it would be impractical to add the new language to the lever machine or adding it would cause the voting system to become more confusing or difficult to read for other voters, and DOJ certifies this is the case.

The reason is simple. Unlike other machines, the lever machines have limited space. If too many languages were required to be on the machines, it would become confusing and you couldn't really put a ballot together. This gives anybody who speaks those languages an ability to vote on the new machines that will be placed in every voting place that is used for the disabled and others without bollixing up the lever machine.

The second amendment—since we are doing them en bloc, I would like to address both—requires that the notice sent to people whose provisional ballots were not counted includes a voter registration form, obvious for its purpose. If your ballot was not counted, there is probably something wrong with the way you registered or you were not registered, whatever.

By giving these folks a voter registration form, they can reregister quickly and easily. I thank the Senator from Connecticut and the Senator from Kentucky for helping me refine these amendments and, as I mentioned before while they were off the floor, for their fabulous leadership on this bill.

Mr. DODD. Mr. President, I commend the Senator from New York. He has been a great help on this bill, generally speaking. These amendments not only will be important for New York but, as he has talked about them, there are other States as well that will appreciate the contribution the Senator from New York has made in these two proposals.

I am in favor of both of these amendments. I just mention this to the Senator from New York. We are going to be looking at what the cost effect is of slipping in that reregistration form. It may not be much at all. I know the Senator from New York would probably want to know the answer to that as well.

In the meantime, I will accept the amendment and take a look at that. I congratulate him on the amendments.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I, too, commend the Senator from New York, who has been a collaborator with several of us on this issue going back over the last year, for his extremely important contribution to this bill and thank him for his great work.

Mr. SCHUMER. I thank my leader collaborator, coconspirators from Kentucky and Connecticut, and urge adoption of the amendments.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendments Nos. 2871 and 2873, en bloc.

The amendments (Nos. 2871 and 2873), en bloc, were agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, that will be the business for this evening. Actually, we completed some work. We had about five amendments adopted in the last 4½ hours. I thank, again, the Senator from New York.

Tomorrow morning, we may get to the bill around 10:15. I have been told that if we can get some agreement, maybe tomorrow, on final passage at a decent hour late tomorrow afternoon, early tomorrow evening—I don't know if that is possible or not—it may be possible for us to complete the business of the Senate by tomorrow. That is obviously subject to the work of the two leaders. At least there is a good possibility. I know that will be warm news to those who would like to get back to their respective States earlier rather than later. I can't help but note the smile of the Presiding Officer with that news.

I thank my colleague from Kentucky for his help today in working through this. There will be a series of other amendments, people coming forward with ideas. We want to accommodate everybody we can, realizing that, as we said at the outset, this is new ground we are breaking in many areas. We are very sensitive and conscious of the State and local involvement in this process. We want to accommodate States and localities to the maximum extent possible as we try to become a better partner in the conduct of elections. We are trying to do work that is sometimes a little confusing, but I think we have done a pretty good job so far. I am hopeful tomorrow we can resolve these other amendments.

My final plea is to Members: Please, there are more and more amendments. Some of them, I am told, are just colloquies. Some Members just want to offer the amendment and withdraw it and discuss their idea. I urge Members, please, if you are interested in doing that, come over first thing in the morning so we can get to the amendments that may require votes because we can't resolve them. We will have to just leave them up to the Members to decide whether or not they want to include them in the bill or not. I urge Members to come over.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. DODD. I am happy to yield.

Mr. SCHUMER. We have an amendment we would just like to file this evening as to the signature forms so that people could take a look at it, and signature attestation, I believe, on behalf of myself and perhaps the Senator from Washington, Ms. CANTWELL.

I ask unanimous consent that we be allowed to file that amendment tonight.

Mr. DODD. No problem.

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

Mr. DODD. I thank a lot of people for their work. I note the presence of the Presiding Officer. Cathy Cox, who is Secretary of State of Georgia, I want the Presiding Officer to know, has been incredibly helpful in this process. She is a remarkable person. I know the Senator from Georgia appreciates that extremely. I want to let him and others know how helpful she has been in helping us see through ideas that would be productive and constructive.

With that, I yield the floor.

Mr. McCONNELL. Mr. President, let me add that I, too, would like to see this bill wrapped up early evening tomorrow. I am hopeful, I say to my friend from Connecticut, that we will get the cooperation on this side of the aisle to achieve that goal.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LUGAR. Mr. President, I rise today to support my amendment specifying that Election Reform Incentive Grant Program funds may go to States wishing to establish toll-free telephone hotlines to be used by voters reporting possible voting fraud and voting rights abuses.

The election of 2000 reminded us that elections can be close and that public confidence in the outcome of elections depends on the accuracy, fairness, and legality of election procedures. Obtaining accurate results requires ensuring that fraudulent votes not dilute the votes cast by eligible voters and that all eligible citizens have poll access.

Officials from a State's or locality's relevant investigating and enforcing

agencies may not have the resources to oversee every polling location. Citizens who witness voting fraud or voting rights abuses may not know where to report a possible violation of law. A toll-free hotline would give citizens a means to help prevent voting fraud and voting rights abuses and would give States the information they need to prosecute violations and implement procedures to prevent further violations.

The Indiana Bipartisan Task Force on Election Integrity recently issued a report developed through months of research and with the input of election officials, voter advocates, and citizens of the State. While the State of Indiana already has implemented many measures that will enhance the integrity of elections, the Task Force recommended additional reforms for that purpose, including the development of a toll-free telephone hotline to be used by voters who believe they have witnessed a voting irregularity or voting rights abuse.

I believe that other States may wish to establish such hotlines, and I believe the hotlines could be an important tool in improving election accuracy, fairness, and legality. For these reasons, I ask my colleagues to support this amendment.

MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business and that Senators be recognized to speak for a time not to exceed 10 minutes.

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

CELEBRATING BLACK HISTORY MONTH 2002 BY COMMEMORATING AND CONTINUING THE WORK OF GREAT AFRICAN-AMERICANS

Mr. DASCHLE. Mr. President, Willie Morris was one of the great under-recognized American writers of the 20th century. He grew up in Yazoo City, MS—population 12,000—where he learned to tell stories by listening to old Black men who sat in the shade and whittled. He said their eye for detail helped him to see things he otherwise would have missed. At 34, Willie Morris became the youngest-ever editor of America's oldest magazine, ''Harper's Weekly.'' He wrote candidly about race long before most other white writers.

Three years ago, Willie Morris died at the age of 64, leaving behind 19 books, many of them best-sellers. Like all great writers, a part of Willie Morris continues to live on in his words. But there is another part of him that lives on as well. You see, before he died, Willie Morris decided to donate his eyes in order to give someone else a chance to see. As it turned out, his corneas went to two different men, neither of whom he had ever met. One was black, one was white. His friends say he would have loved the irony of his gift: that a man who helped us see the world a little more clearly during his life is still helping people see after his death.

America has changed since Willie Morris was a boy listening to the stories of those old men. We no longer accept legal discrimination. We no longer permit poll taxes to bar African-Americans from voting. We no longer tolerate ''separate but equal'' schools or water fountains or lunch counters. We have made considerable progress—due, in large part, to courageous African-American leaders including Martin Luther King, Rosa Parks, Thurgood Marshall, and John Lewis. During Black History Month, we honor those leaders and all of the other extraordinary African-Americans who have contributed so greatly to our nation—heroes like Crispus Attucks, who died at the Boston Massacre; Salem Poor, who fought at Bunker Hill and survived that brutal winter at Valley Forge; Harriet Tubman, the Underground Railroad ''conductor'' who rescued hundreds of people from slavery, served during the Civil War as a Union cook, spy, scout and nurse and was buried with full military honors.

We honor the Tuskegee Airmen, the first African-Americans ever to fly combat aircraft and one of the most decorated fighter squadrons in our nation's history, who fought Nazism in Europe—and racism when they returned home; and Secretary of State Colin Powell, the first African-American to serve as Chairman of America's Joint Chiefs of Staff.

We honor great scientists, including George Washington Carver and Benjamin Banneker, the mathematician and astronomer and the first African-American to receive a Presidential appointment—from Thomas Jefferson. We also honor great orators and champions of human rights, including Frederick Douglass, Sojourner Truth and Barbara Jordan; great educators, such as Mary McLeod Bethune and Booker T. Washington; and great artists, including Marian Anderson, the first African-American soloist to sing with the Metropolitan Opera in New York, Zora Neale Hurston, the novelist and Langston Hughes, ''the poet laureate of Harlem.''

This month, as the world watches the Olympic Games in Salt Lake City, we also honor extraordinary earlier Olympians like Jesse Owens, who shattered the myth of Aryan supremacy by winning four gold medals at the 1936 Olympics in Berlin; and Wilma Rudolph, the first African-American woman to win three Olympic gold medals, in 1960. We also honor other great athletes including Jackie Robinson, the first African-American to play Major League baseball; and Arthur Ashe, champion of tennis and human rights.

We remember exceptional leaders such as W.E.B. DuBois, one of the founders of the NAACP; A. Philip Randolph, the former vice president of the AFL–CIO and founder of the first African-American trade union; and Ralph Bunche, diplomat, Under Secretary General of the U.N., and the first Black person from any nation ever to win the Nobel Peace Prize. And we honor the countless other African-Americans who changed our nation for the better simply by having the courage to say no to indignity and injustice in their own lives.

The stories of African Americans are the missing chapter in America's history books. If we don't know them, we cannot truly know ourselves.

But it's not enough just to celebrate their work. Especially this year, we must continue their work.

To the terrorists who attacked us on September 11, the America Martin Luther King described—an America built on equality, justice, freedom and human dignity for every person—is not a dream. It is a nightmare. By attacking us, the terrorists thought they could destroy our dream. But they were wrong. Instead of turning on each other in the wake of the attacks, as the terrorists had expected, Americans turned to each other. We came together in ways that most of us had never seen in our lifetimes. We were truly one people, indivisible.

Those of us who work in this building, and people all over the world who look to this Capitol as a symbol of democracy, are incredibly fortunate that another chapter in African-American history was written last fall. Just five days before September 11, former Army Major General Al Lenhardt became this Senate's Sergeant at Arms, the first African-American ever to serve as an elected officer in either the House or the Senate. I know I speak for all of us when I say how grateful we are to him for seeing us safely through September 11 and the anthrax attack.

We are also proud of our men and women in uniform, who are now bringing justice to the killers of September 11. What they are doing is right and necessary. But it is not the only way we can honor the nearly 3,000 innocents who died in New York, at the Pentagon and in western Pennsylvania. We can defy the killers right here at home—by keeping Martin Luther King's dream alive, and strengthening the democracy the terrorists sought to destroy.

We can start this month by strengthening our election system so that we never again experience an election like we did in 2000, when millions of votes went uncounted, especially those of African-Americans. We have an extraordinary opportunity. Senators DODD, MCCONNELL and BOND have given us a good, truly bipartisan election reform bill that requires states to meet uniform, nondiscriminatory voting standards, and provides the resources they need to do so. That bill is on the Senate floor now. I hope we will pass it this week with overwhelming support. If we are a democracy in fact as well as in name, the right to vote and to have that vote count must not be compromised.

The income gap between Blacks and whites in America is narrower today than it has ever been. But it is still too wide. We can do better. Last week, we voted to provide an additional 13 weeks of benefits to laid-off workers who have exhausted their unemployment benefits.

I hope we can still find a way to expand unemployment insurance coverage to part-time workers and recent hires—a disproportionate number of whom are African-American—and to help all laid-off workers maintain their health benefits.

Let's also raise the minimum wage. It's been five years since the last increase. The purchasing power of the minimum wage is now the lowest it's been in more than 30 years. And a full-time minimum wage income won't get you over the poverty line. We can do better.

Nothing has more power than education to move us from separate to equal. Yet today, nearly half-a-century after Brown v. Board of Education, mst minority students still attend schools that are predominantly minority. Their class sizes, on average, are larger, their books are older, their lessons are less challenging and their teachers have less training in the subjects they teach. Last year, we passed a promising, bipartisan school reform act. This year, let's work togther to make sure that ''Leave No Child Behind'' is a promise kept, not a dream deferred. Our goal should be to make sure that every child in America comes to school ready to learn and leaves school ready to succeed.

If we learned anything from the terrible ordeal of September 11, it is that we cannot tolerate acts of hatred and discrimination. Make no mistake about it: Chaining a man to the back of a pickup truck and dragging him to his death for no reason other than the color of his skin is an act of terrorism. And while James' Byrd's death may be the best-known racially motivated hate crime in recent years, it is not the only such crime. A hate crime scars this country every hour and 10 minutes of every day, 365 days a year. In the last Congress, the Senate passed a bipartisan bill strengthening federal protections against hate crimes only to see it die in conference with the House. We need to pass it again this year. And this time, let's make sure it becomes law. W came together on September 11. If we are to stay together, we must stand against every form of bigotry and hatred.

Finally, we know that protecting rights in law is only half the battle. We also need a judiciary that protects our rights in court. As Senators, we have a special obligation to ensure that the men and women who are nominated for lifetime positions on the federal bench or the Supreme Court will protect the basic rights for which so many Americans, from Crispus Attucks on down through the years, have given their lives. Let us honor that obligation this month and every month we are privileged to be here.

We don't need Willie Morris' eyes to see how far America has come on civil rights since he was a boy. We also don't need Willie Morris' eyes to see that there is still a gap between the America we are and the America we can be. We all see those things. Our challenge today is to envision ways to close that gap, and then to transform that vision into law. In doing that, we will honor African-Americans and every American of every race and creed who died on September 11.

I yield the floor.

IMPRESSIVE STEPS TAKEN AGAINST THE WAR ON TERRORISM

Mr. SPECTER. Mr. President, I have sought recognition to comment about our war against terrorism and about the recent statements made by Administration officials concerning possible actions toward Iraq.

At the outset, I compliment President Bush and the Administration for the very effective steps taken on the war against terrorism. We have seen the response to the disastrous, tragic, horrendous events of September 11, with the military moving in, doing in Afghanistan what the Soviets could not do, and doing what the British could not do much earlier. We are well on our way, having defeated the Taliban and al-Qaida; very impressive steps taken in the war against terrorism. The President has done an outstanding job on leadership on this critical issue.

There have been comments recently about the possibility of action against Iraq, and that may well be warranted. On this state of the record, it is my thinking there are quite a number of serious questions which have to be answered. We need to know, with some greater precision, the threat posed by Saddam Hussein with respect to weapons of mass destruction. There is solid evidence about Saddam Hussein having chemical weapons, substantial evidence on biological weapons, and some questions about nuclear weapons. However, there really ought to be a comprehensive analysis as to the precise nature of Saddam Hussein's threat.

Iraq is on the record as having supported terrorism, and it seems to me there ought to be an elaboration as to the terrorist activities which are attributable to Iraq. If there is to be military action, we ought to have a full statement as to Iraq's violations of UN inspections. We know that the UN inspectors have been ousted, but here again, this is an issue where more information is necessary for the Congress and, in my view, for the American people. There also has to be an analysis of what the costs would be, some appraisal in terms of casualties, depending upon the nature of the contemplated action.

Then there is the issue as to what happens after Saddam Hussein is toppled. There is no doubt about the desirability of toppling Saddam Hussein. By twenty-twenty hindsight, perhaps it is regrettable the United States and its allies did not move on Baghdad in 1991. That, obviously, is water over the dam. There were many factors to be considered including the unwillingness of our allies at that time to move. The U.S. had success against Iraq in 1991, but toppling Saddam Hussein was an action that was obviously not taken.

There have been statements by the President in identifying the axis of evil as Iran, Iraq, and North Korea. The President has stated if we do not have the cooperation of our allies we will act alone, and I think there is a solid basis for the President to say that and for the President to give serious consideration to acting alone.

We know there were many danger signals as to Osama bin Laden and al-Qaida. We know that bin Laden was under indictment for murdering Americans in Mogadishu in 1993. He was under indictment for murdering Americans and others in the embassy attacks in 1998. He was implicated in the terrorism against the USS Cole. He pledged a worldwide ''jihad'' against the United States. There was substantial authority under international law for what had transpired for the United States to act.

What we have seen in modern times is in effect a non-determination of guilt and action against terrorism as a matter of self-defense recognized under international law. When President Reagan acted against Muammar Qadhafi in April of 1986, that was in effect a non-determination of guilt, and we moved in self-defense against Qadhafi. When President Clinton dispatched missiles to Afghanistan in August of 1998—again, a non-judicial determination of guilt. There would have been total justification for the United States moving against al-Qaida and Osama bin Laden in advance of September 11. That experience suggests we have to make a careful analysis, a calculated analysis of the risks.

It may well be justified as a matter of self-defense to act, and act against Saddam Hussein and Iraq. As we know by twenty-twenty hindsight, the vision is very clear. We know in twenty-twenty hindsight that it would have been wise to have acted against Osama bin Laden and al-Qaida before September 11.

The statements reported from Secretary Colin Powell yesterday, in testifying before the Senate Budget Committee, are worth noting with particularity. Secretary Powell was quoted as saying: ''With respect to Iraq, it has long been for several years now a policy of the U.S. Government that regime change would be in the best interests of the region, the best interests of the Iraqi people.'' Secretary Powell also said: ''With respect to Iran and with respect to North Korea, there is no plan to start a war with these nations.''

By the grammatical negative pregnant pause, the implication is pretty clear that when the Secretary of State says in formal testimony before the Senate committee that there is no plan to ''start a war with these nations,'' referring to Iran and North Korea, there is a different plan with respect to Iraq. As I say, it may well be justified.

If there is to be a use of force and if there is to be war, under our Constitution it is the responsibility and it is the authority of the Congress of the United States to make the determination to declare war. That constitutional provision is there for a very good reason. We in the Senate and those in the House of Representatives represent the American people, and we speak for the American people. We have seen the bitter lesson from Vietnam that we cannot prosecute a war without the public support. If there is to be the authorization for the use of force or declaration of war, that is a matter that ought to come before the Congress.

These are views I have held for a very long time. In college I studied political science and international relations and served stateside during the period of the Korean war. At that time I wondered about being engaged in a war which was not a matter of congressional determination. That may be a somewhat personal aspect, having been called to service, and I was glad to spend twp years in the U.S. Air Force. I served stateside. However, the question in my mind at that time, having studied international relations and knowing the constitutional provision, was why a war was not declared.

Since coming to the Senate, I have been engaged in debates in this Chamber on this subject on many occasions. In 1983 when there was military action in Lebanon, I had an extensive colloquy with Senator Percy, then Chairman of the Foreign Relations Committee, and asked him if, in fact, Korea was not a war. He said, ''yes, it was a war.'' I asked about Vietnam, ''was it a war?'' ''Yes, it was a war.'' However, on neither occasion was the declaration determined by the Congress.

On the hearings for nominees for the Supreme Court, that was a question I posed with some frequency to nominees, illustrative of which was the confirmation of Justice David Souter. I recalled on Friday asking him, ''was Korea a war?'' I wanted to know. I had framed litigation which I took to Senator Baker for determination as to the War Powers Act and constitutionality, thinking there would be an appropriate judicial determination on that subject. Not unexpectedly, Justice Souter said he had not thought about it. So I said, take some time, and over the weekend we had an adjournment and came back on Monday. I said, ''you have had time to think about it. Was Korea a war?'' He said, ''I do not know''—which is not a bad answer. If you do not know, you do not know. There is not much you can say by questioning beyond that. I see Justice Souter from time to time, and that colloquy is something about which he comments from time to time.

When this body took up the resolution for the use of force in 1991, I have a clear recollection that President Bush did not want the resolution put before the Senate and before the House. I think he was concerned whether it would be approved. There was historic debate here in January of 1991. The Senate approved the resolution for the use of force by a vote of 52 to 47. The comments at that time went to the effect that it was a historic event. However, when President Bush had the resolution by the House and by the Senate, it was a much stronger approach.

His reluctance to come before Congress is typical of the tension which exists between the executive and legislative branches, with the Presidents traditionally saying they do not need congressional authorization to act because they have the constitutional authority as Commander in Chief, and the response institutionally from many in the Congress has been, ''no, the Congress has the sole authority to involve the United States in war by our sole constitutional authority.''

The history of the War Powers Act is a very significant development. The executive branch, the President, while complying with it, traditionally says it is not constitutional; he is not really bound to do so.

We had the issue raised again when President Clinton sent missiles into Baghdad. I took the floor on a number of occasions in 1998 arguing that with the imminence of the likelihood of action by the President on missiles in Baghdad, the House of Representatives and Senate ought to stand up and make that determination. Candidly, the Congress is never very anxious to make that determination. It is easier to let the President make the decision. If he is wrong, he gets the blame. If he is right, then the issue passes.

We did have the debate on the bombing of Yugoslavia. It passed this body. It came to a tie vote, 213–to–213, in the House of Representatives. Therefore, Congress had not authorized that attack. It takes, obviously, a resolution on both sides. However, the bombing went ahead.

We are facing a very serious situation with Iraq. Iraq is a real menace. There is no doubt about that. I think there are very strong United States national interests to topple Saddam Hussein, and I think it is very much in the interests of the people of the region that he be toppled and also very much in the interests of the people of Iraq that he be toppled.

However, I do believe that, constitutionally, it is a judgment which ought to come before the Congress of the United States. I believe there ought to be hearings by the appropriate committees of the Congress to take up these questions as to the specific threats which Saddam Hussein poses and Iraq's specific activities on terrorism—a good bit of it, doubtless, might have to be conducted in closed session. However, some of it could be conducted in an open session: what the costs would be, the casualties, and what happens afterwards.

However, the American people need to know much more of the details, and I believe the Congress needs to know much more of the details than what has been conveyed so far by the Administration. It is my hope that this issue will attract the attention of the Congress of the United States with statements such as this one, with hearings, and with our deliberative process, recognizing the seriousness of the issue and recognizing also our constitutional responsibility.

The PRESIDING OFFICER. The Senator from Pennsylvania has consumed 15 minutes.

Mr. SPECTER. I yield the floor.

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 last 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 August 13, 1994 in Sioux City, IA. Two gay men were stabbed and beaten by two attackers because of the victims' sexual orientation. The assailants, Charles Samuel Thomas, 18, and Dennis Evans Smith, 23, were charged with multiple felonies, including two hate crime charges, in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

TRIBUTE TO ROSS POWERS

Mr. JEFFORDS. Mr. President, it came to me as no surprise that again today I have the pleasure to rise and recognize the gold medal effort of a Vermonter on the halfpipe yesterday in Park City, UT at the 2002 Winter Olympics. Ross Powers, who hails from South Londonderry, VT, won the men's snowboarding halfpipe event, a sport that traces its roots back to Vermont, riding a Burton snowboard, which was built in Vermont.

Ross, who led the American sweep of a Winter Olympic event in 46 years, turned 23 on Sunday but is no novice at high competition. In Nagano, Japan 4 years ago, Ross brought home a bronze medal for his country. But his performance yesterday was truly special: it earned him a first-place finish and led the way for Danny Kass and J.J. Thomas to win the sliver and bronze medals,

respectively. Three Americans stood atop the podium, and Americans watching everywhere cheered them on.

On behalf of all Vermonters, and all Americans, Ross, congratulations, good luck, and thank you for giving your best yesterday in Utah.

MESSAGE FROM THE HOUSE

At 11:08 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1748. An act to designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the ''Tom Bliley Post Office Building.''

H.R. 2577. An act to designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the ''Bob Davis Post Office Building.''

H.R. 3699. An act to revise certain grants for continuum of care assistance for homeless individual and families.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 313. Concurrent resolution expressing the sense of Congress regarding the crash of Transporte Aereo Militar Ecuatoriano (TAME) Flight 120 on January 28, 2002.

H. Con. Res. 324. Concurrent resolution commending President Pervez Musharraf of Pakistan for his leadership and friendship and welcoming him to the United States.

H. Con. Res. 325. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

H. Con. Res. 326. Concurrent resolution commending the National Highway Traffic Safety Administration for their efforts to remind parents and care givers to use child safety seats and seat belts when transporting children in vehicles and for sponsoring National Child Passenger Safety Week.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 2998) to authorize the establishment of Radio Free Afghanistan.

The message also announced that pursuant to section 2(b) of Public Law 103–419, the Speaker reappoints on the part of the House of Representatives Dr. Abigal N. Thernstrom of Lexington, Massachusetts, to the Commission on Civil Rights for a 6-year term beginning on February 12, 2002.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1748. An act to designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the ''Tom Bliley Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2577. An act to designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the ''Bob Davis Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3699. An act to revise certain grants for continuum of care assistance for homeless individual and families; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 313. Concurrent resolution expressing the sense of Congress regarding the crash of Transporte Aereo Militar Ecuatoriano (TAME) Flight 120 on January 28, 2002; to the Committee on Foreign Relations.

H. Con. Res. 326. Concurrent resolution commending the National Highway Traffic Safety Administration for their efforts to remind parents and care givers to use child safety seats and seat belts when transporting children in vehicles and for sponsoring National Child Passenger Safety Week; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1857: A bill to Encourage the Negotiated Settlement of Tribal Claims.

By Mr. CONRAD, from the Committee on the Budget, unfavorably, without amendment:

S.J. Res. 31: A joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Environment and Public Works pursuant to the unanimous consent agreement of February 13, 2002:

ENVIRONMENTAL PROTECTION AGENCY

Linda Morrison Combs, of North Carolina, to be Chief Financial Officer, Environmental Protection Agency.

Morris X. Winn, of Texas, to be an Assistant Administrator of the Environmental Protection Agency.

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 Mr. SPECTER (for himself and Mr. DURBIN):

S. 1937. A bill to set forth certain requirements for trials and sentencing by military commissions, and for other purposes; to the Committee on Armed Services.

By Mr. GRAHAM (for himself, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 1938. A bill to amend the Consolidated Farm and Rural Development Act to establish a grant program to train farm workers in new agricultural technologies; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID (for himself, Mr. BENNETT, Mr. HATCH, and Mr. ENSIGN):

S. 1939. A bill to establish the Great Basin National Heritage Area, Nevada and Utah; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. MCCAIN, Mr. FITZGERALD, Mr. DURBIN, and Mr. DAYTON):

S. 1940. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. DURBIN):

S. 1941. A bill to authorize the President to establish military tribunals to try the terrorists responsible for the September 11, 2001 attacks against the United States, and for other purposes; to the Committee on Armed Services.

By Mrs. LINCOLN (for herself, Mr. DAYTON, and Mr. JOHNSON):

S. 1942. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to promote the production of biodiesel, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1943. A bill to expand the boundary of the George Washington Birthplace National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 1944. A bill to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. BREAUX, Mr. LEVIN, Mr . LUGAR, Mr. DOMENICI, and Mrs. HUTCHISON):

S. Res. 208. A resolution commending students who participated in the United States Senate Youth Program between 1962 and 2002; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. SANTORUM, Mr. BROWNBACK, Mr. DEWINE, and Mr. ENSIGN):

S. Res. 209. A resolution to express the sense of the Senate regarding prenatal care for women and children; to the Committee on Finance.

By Mr. DASCHLE:

S. Con. Res. 97. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

ADDITIONAL COSPONSORS

S. 659

At the request of Mr. CRAPO, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 659, a bill to amend title XVIII of the Social Security Act to adjust the labor costs relating to items and services furnished in a geographically reclassified hospital for which reimbursement under the medicare program is provided on a prospective basis.

S. 829

At the request of Mr. BROWNBACK, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

S. 852

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 852, a bill to support the aspirations of the Tibetan people to safeguard their distinct identity.

S. 1379

At the request of Mr. KENNEDY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1379, a bill to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Kansas (Mr. BROWNBACK) 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. 1839

At the request of Mrs. CLINTON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1839, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 1917

At the request of Mr. JEFFORDS, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century.

S. RES. 132

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 132, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

S. RES. 185

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. Res. 185, a resolution recognizing the historical significance of the 100th anniversary of Korean immigration to the United States.

S. RES. 204

At the request of Mr. DEWINE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 204, a resolution expressing the sense of the Senate regarding the importance of United States foreign assistance programs as a diplomatic tool for fighting global terrorism and promoting United States security interests.

AMENDMENT NO. 2842

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2842 proposed to S. 1731, an original bill 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.

AMENDMENT NO. 2850

At the request of Mr. COCHRAN, his name was added as a cosponsor of amendment No. 2850.

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of amendment No. 2850 supra.

AMENDMENT NO. 2851

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2851.

AMENDMENT NO. 2852

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 2852.

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 2852 supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself and Mr. DURBIN):

S. 1937. A bill to set forth certain requirements for trials and sentencing by military commissions, and for other purposes; to the Committee on Armed Services.

Mr. SPECTER. Mr. President, I have sought recognition to introduce, on behalf of Senator DURBIN and myself, legislation entitled the ''Military Commission Procedures Act of 2002.''

The President issued an order establishing generalized procedures for trying members of al-Qaida and the Taliban. It is my view and Senator DURBIN's view that Congress ought to consider what are the appropriate procedures pursuant to our authority under the Constitution, article I, section 8, which gives to the Congress the responsibility and authority ''To define and punish . . . Offenses against the Law of Nations.''

We have already legislated in part, delegating to the President the authority to establish military tribunals ''by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter.''

The President promulgated his order without consultation with Congress. This legislation is a starting point for what we believe ought to be consideration by the Judiciary Committee.

In the President's order, there was a provision that there could be no appeal from any order of the military tribunal. But that, on its face, was inconsistent with the Constitution, which preserves the right of habeas corpus unless there is rebellion or invasion, neither of which had occurred here.

The President's order also allowed for conviction of a capital offense by a two-thirds vote, but that is inconsistent with the Uniform Code of Military Justice, and the law does not allow a regulation to be inconsistent with that law.

So Senator DURBIN and I have provided the modifications that two-thirds is acceptable generally. But if the sentence carries 10 years or more, it requires a three-fourths vote. And for the death penalty, it would require a unanimous vote.

This legislation further provides for right to counsel consistent with the Uniform Code of Military Justice, which would be either military counsel or could be private counsel. But that right is preserved.

On one provision, we have provided that there would be no ''Miranda'' rights for suspects who are interrogated. I candidly concede that in abrogating ''Miranda'' rights, that will be a source of some contention, which can be the subject of hearings. But it is our view that we should not give al-Qaida or Taliban prisoners access to counsel before they are questioned, first, for the safety of the soldiers who are doing the questioning, and, second, because of the importance, potentially, that eliciting information would stop further terrorist attacks.

Of course, we could provide no ''Miranda'' warnings in advance but not allow admissions to be used at trial, but it is our view, subject to hearings and further consideration, that ''Miranda'' rights ought not to be required.

We have provided for an open trial unless there is classified information; and, if classified information is used, we have incorporated the provisions of the Anti-Terrorism Act of 1996—a compromise worked out by Senator Simon and myself on the floor—which provides for a summary to be given to the defendant and the commission, to be reviewed by the commission, to see if it is adequate to protect sources and methods of classified information and also adequate to inform the defendant of the evidence so that the defendant would have substantially the same ability to make his defense as he would if the classified information was disclosed.

We have not provided any restrictions on rules of evidence, since it is the custom of Congress not to do so. But we think this legislation is an important first step. We now know there is a large contingent of those captive in Guantanamo Bay.

I believe the President made a sound decision in saying that al-Qaida members were not prisoners of war, not subject to the Geneva Convention because they are terrorists, murdering innocent civilians. The President did accord Taliban members the protections of the Geneva Convention.

But these trials will soon start. It is very important that our country and our Government proceed with accepted norms for criminal trials. To have a death penalty imposed on a two-thirds vote, as is in the Presidential order, would not be consistent with our generalized standards. To provide for no appeal is not consistent with the constitutional provisions.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SPECTER. I ask unanimous consent for 30 seconds to finish my sentence, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. We believe this is a starting point. We urge early hearings so we can establish the parameters, so when we deal with these treacherous terrorists, we will, in accordance with American standards, give them basic due process—no more, but basic due process.

Mr. DURBIN. Mr. President, on November 13, 2001, President Bush issued a military order authorizing the use of military commissions to prosecute individuals who may be engaged in activities related to the subject of our campaign against terrorism.

The initial public reaction to the White House action was one of surprise and skepticism: Surprise that the order was issued without any advance notice, and skepticism as to whether the decision is based on sound legal or policy grounds. Many commentators also raised legitimate concerns that the Administration's use of military tribunals could potentially undermine our long-held foreign policy of criticizing other nations' reliance on such tribunals.

My reaction, which, I believe, was echoed by many of my colleagues in Congress, was one of disappointment, in addition to the surprise and skepticism. I was disappointed that Congress was excluded from deliberating a policy as important as this one before the White House announced the order.

I have said repeatedly since September 11 that I fully support the President in his efforts to combat terrorism both here and abroad. In response to September 11, Congress worked hand in hand with the administration on a host of items in a truly cooperative and bipartisan manner, from the passage of a joint resolution authorizing the President to use all necessary force, to the passage of the sweeping anti-terrorism bill.

Yet on the drafting of this military order, Congress was left completely in the dark. The Constitution provides executive powers to the President, not exclusive powers. Our Nation remains strong only if the co-equal branches of government work together.

Any proceeding that takes place under President Bush's order will have to withstand the test of legal scrutiny for years to come. But more importantly, it will also have to pass the scrutiny of our citizens at home and of our friends and enemies abroad who are watching to see how the greatest democracy in history carries out justice.

At the Judiciary Committee hearing held in early December, Senator SPECTER and I both questioned the administration's witness to ascertain the precise constitutional authority upon which the administration was relying in creating this tribunal. We did not receive a satisfactory answer.

We also wanted to know the precise scope and reach of the order in terms of who will be brought before such a tribunal, what procedural and evidentiary standards are to be applied, and what due process safeguards, including appeals, will be in place. We did not receive many details here either.

Instead, the administration asked us to wait for the regulations implementing the order that the Defense Department was preparing.

It has been over 3 months since the President's order was issued, and we have not seen the Defense Department regulations. So I believe it is appropriate for Congress to act now to provide the constitutional authority and guidance on procedures before the first military commission is empaneled under the President's order.

I am introducing the ''Military Commission Procedures Act of 2002'' with Senator SPECTER. I believe this bill will provide the executive branch with the legal authority to prosecute potential terrorists captured in the current military campaign abroad.

Our bill is designed to ensure that military commissions are used in the most narrow and necessary circumstances while protecting the basic rights of defendants. The bill limits the jurisdiction of military commissions to try defendants only for violations of the law of war, and not any domestic laws.

The defendants would be entitled to representation by counsel in the same manner as military service members under the Uniform Code of Military Justice. The prosecution would need to prove its case beyond a reasonable doubt, and the death penalty could not be imposed without a unanimous vote as to guilt and to the sentence.

Furthermore, in order to keep the proceedings as open as possible, our bill provides for classified information procedures where the defendant would receive a summary of such evidence while the commission considers the actual evidence in camera and ex parte. The bill also authorizes convicted defendants to petition the U.S. Supreme Court for certiorari.

In short, Senator SPECTER and I believe this bill includes the details that the President's military order of November 13 should have included. More importantly, the bill provides the full force of the congressional and constitutional support behind the President's continuing efforts to wage a war against terrorism.

I urge my colleagues to join us in supporting this legislation.

By Mr. REID (for himself, Mr. BENNETT, Mr. HATCH, and Mr. ENSIGN):

S. 1939. A bill to establish the Great Basin National Heritage Area, Nevada and Utah; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself, Senator ENSIGN, Senator HATCH, and Senator BENNETT to introduce this bill, which will establish a National Heritage Area in eastern Nevada and western Utah.

National Heritage Areas are regions in which residents, businesses, as well as local and tribal governments have joined together in partnership to conserve and celebrate cultural heritage and special landscapes. For Nevada, these include such nationally significant historic areas as the Pony Express and Overland Stage Route, Mormon and other pioneer settlements, historic mining camps and ghost towns, as well as Native American cultural resources such as the Fremont Culture archeological sites.

The bill will also highlight some of Nevada's natural riches. The Great Basin contains great natural diversity, including forests of bristlecone pine, which are renowned for their ability to survive for thousands of years. The Great Basin National Heritage Area includes White Pine County and the Duckwater Reservation in Nevada and Millard County, UT. The Heritage Area will also ensure the preservation of key educational and inspirational opportunities in perpetuity without compromising traditional local control over—and use of—the landscape. Finally, the Great Basin National Heritage Area will provide a framework for celebrating Nevada's and Utah's rich historic, archeological, cultural, and natural resources for both visitors and residents.

The bill will establish a board of directors to manage the area. Consisting of local officials from both counties and tribes, the board will have the authority to receive and spend federal funds and develop a management plan within five years of the bill's passage. The bill mandates the Secretary of the Interior to enter into a memorandum of understanding with the Board of Directors for the management of the resources of the heritage area. The bill also authorizes up to $10 million to carry out the Act but limits Federal

funding to no more than fifty percent of the project's costs. The bill allows the Secretary to provide assistance until September 20, 2020.

This bill benefits not just Nevada and Utah, but citizens of all States. It highlights some areas of outstanding cultural and natural value and brings people together to celebrate values that they can be proud of.

By Mr. LEVIN (for himself, Mr. MCCAIN, Mr. FITZGERALD, Mr. DURBIN, and Mr. DAYTON):

S. 1940. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements; to the Committee on Finance.

Mr. LEVIN. Mr. President, today I am pleased to introduce Ending the Double Standard for Stock Options Act along with my colleagues Senator MCCAIN, Senator FITZGERALD and Senator DURBIN.

As another lesson learned from the Enron debacle, this bill addresses a costly and dangerous double standard that allows a company to take a tax deduction for stock option compensation as a business expense while not showing it as a business expense on its financial statement.

Stock options were a driving force behind management decisions at Enron that focused on increasing Enron's stock price rather than the solid growth of the company.

Stock options are opportunities given to certain employees, usually top executives, to purchase a company's stock at a set price for a specified period of time, such as 5 or 10 years. When the stock price increases, the potential profit to the executive rises, and the more stock options an executive has, the smaller the increase needed to realize significant gain.

Stock options are a stealth form of compensation, because they do not, under current accounting rules, have to be shown as an expense on the corporate books. In fact they're the only form of compensation that doesn't have to be treated as an expense at any time. But, like other forms of compensation, option expenses are allowed as a tax deduction for a corporation. It doesn't make sense, but that's the way it is. And this long-standing mismatch between U.S. accounting and tax rules was exploited by Enron to the hilt. The result was both misleading financial statements and an incentive to push accounting rules to the limit in order to artificially raise stock prices so as to make the stock options more valuable.

A New York Times article from last October 21, reports that, ''Since 1993, studies from Wall Street to Washington have shown that pushing [stock option] expenses off the income statement has inflated corporate earnings and misled investors about profits, particularly at technology concerns. Options are also a titanic but stealthy transfer of wealth from shareholders to corporate management.''

Let's look at how it worked at Enron. We've all heard about the many ways that Enron inflated its earnings and hid its debts by keeping various partnerships off the company books. Well, Enron did the same thing with stock options.

For five years, from 1996 until the year 2000, Enron told its shareholders that it was rolling in revenues. One analysis by Citizens for Tax Justice, using Enron's public filings, reports that Enron claimed a total 5-year income of $1.8 billion. This figure apparently included, however, a number of accounting gimmicks, one of which was Enron's decision to relegate all stock option compensation it had provided to a footnote and to exclude such compensation from its total expenses, even though, according to the same study, the stock option pay over five years had reached almost $600 million. That $600 million, by the way, represented one-third of all the income reported by Enron over a 5-year period.

Yet all $600 million was, legally, kept off-the-books, away from Enron's bottom line. That's because existing U.S. accounting rules allow U.S. companies to omit employee stock option compensation as a charge to earnings on their financial statements. That is a unique rule. Stock option compensation is the only kind of employee compensation that a U.S. company never has to record on its financial statements at any time as an expense. That means Enron could give its executives, directors and other employees $600 million in stock options and never show one penny of that pay on its books. It could dole out stock options like candy and never reduce by one penny its alleged income of $1.8 billion.

The result was that Enron was able to provide extravagant compensation, without ever having to account for that extravagance on its bottom line where stockholders and the public might take notice.

But Enron's misleading financial statements are not the end of the story. The backside of the story is that, at the same time Enron was touting its skyrocketing revenues and providing extravagant pay to insiders, it was apparently telling Uncle Sam that its expenses exceeded its income and its tax liability was little or nothing. The study by Citizens for Tax Justice, after reviewing Enron's public filings, has calculated that, despite claiming a 5-year revenue total of $1.8 billion, Enron apparently failed to pay any U.S. tax in 4 out of the last 5 years. How did a company with $1.8 billion in revenue apparently pay so little in taxes? The same study calculated that with a 35 percent corporate tax rate, Enron should have paid about $625 million over five years. But, apparently, according to the study, the principal way Enron avoided paying these taxes was by claiming that its income had been wiped out by nearly $600 million in stock option expenses, the same $600 million that Enron chose not to put on its financial statements as an expense. While these numbers are based on public filings and not based on a review of the actual tax returns, the significance of Enron's actions is the same, avoiding tax liability through the use of stock options.

As I noted earlier, Enron was not acting illegally here, nor were its actions unique. It took advantage of the tax provisions which we hope to change in our bill which allow a company to claim a stock option expense on its tax return even if the company never lists that expense on the company books. These tax provisions incomprehensibly and indefensibly allow companies to tell Uncle Sam one thing and their stockholders something else.

And to add insult to injury, last year the IRS issued Revenue Ruling 2001–1 which determined that companies whose tax liability was erased through stock option expenses are not subject to the corporate Alternative Minimum Tax. That revenue ruling means that our most successful publicly traded companies, if they dole out enough stock options to insiders, can arrange their affairs to escape paying any taxes. That absurd result leaves the average taxpayer feeling like a chump for paying his fair share when a company like Enron can use its success in the stock market to apparently end up tax free.

Now you may have noticed that, in discussing Enron's tax returns, I have been using the words ''appears to'' and ''apparently.'' That is because, despite a pending request from Senators BAUCUS and GRASSLEY of the Senate Finance Committee, Enron has yet to release its tax returns to either Congress or the public.

The lack of direct access to Enron's tax returns requires Congress and the public to have to continue making educated guesses about Enron's tax conduct, without having the actual facts. It is much too late and much too serious for Enron to be asking everyone to play this guessing game. Enron is in bankruptcy; it has brought economic loss to individuals and financial institutions across this country; its management claims to have done nothing wrong, and the company professes to be cooperating with investigators.

Enron should immediately release to the public the last five years of its tax returns. Then we'll know with certainty if Enron paid no taxes in 4 out of the last 5 years and why. Then we'll know with certainty if Enron eliminated its taxes primarily through stock option deductions, or whether it used other tax provisions to avoid payment of tax such as diverting income through offshore tax havens. The public and the Congress have a right to know what really happened at Enron.

It is also important to realize that most companies treat stock options

the same way Enron did. A recent USA Today article reports that out of the S&P 500 companies, only Boeing and Winn-Dixie currently record stock option expenses on both their financial statements and tax returns. The other 498 companies apparently do not. The article says that had stock option expense been recognized on their earnings statements, the S&P 500's revenues would have fallen by 9 percent, another measure of how much off-the-books stock option pay is out there.

Even more troubling, and something that needs more investigation and attention is the claim in the article that ''half a dozen academic studies have concluded that companies time the release of good or bad news near the date that executives are issued their options, orchestrating a potential windfall.'' In other words, some believe that executives are timing the release of company information around the dates they are to receive their stock options, thereby artificially inflating the value of their options.

The future promises more of the same. A February 3rd New York Times article entitled, ''Even Last Year, Option Spigot Was Wide Open,'' reports that companies are providing more stock options than ever to their executives, even in the face of poor company performance and diluted stockholder earnings. ''It's a great time to give options,'' one expert is quoted as saying. ''They're cheap because they involve no change to earnings, and that's important at a time when profits are down.''

Ten years ago, some of us tried to end corporate stock option abuses by urging the Board that issues generally accepted accounting principles, the Financial Accounting Standards Board or FASB, to require stock option expenses to be shown on company books. We were not successful. Corporate America fought back tooth and nail. Intense pressure was brought to bear on FASB. Arthur Levitt told the Governmental Affairs Committee last month that he spent 50 percent of his first four months at the SEC talking to corporate executives who wanted to keep their stock option pay off the books. On one day during the height of the campaign, 100 CEOs flew into Washington to lobby Members of Congress on this issue. In 1994, in the midst of this intense lobbying, the Senate voted 88–9 to recommend against putting stock option pay on the books.

Arthur Levitt testified before our committee that one of his greatest regrets from his days at the SEC was that he didn't work harder to get stock options treated as an expense on a company's financial statement. Several accounting firms, including Andersen and Deloitte, now support expensing options. They are joined by more than 80 percent of U.S. financial analysts, as reported in a September 2001 survey conducted by the leading financial research organization, the Association for Investment Management and Research.

In addition, the newly re-constituted International Accounting Standards Board in London, the international equivalent of our FASB, has announced that one of its first projects will be to propose international standards requiring stock options to be expensed on company books. But in a repeat of what happened here in the United States, corporate lobbyists are already organizing to oppose this project. An Enron document uncovered by my Subcommittee casts light on how this battle may be fought.

The document is an email dated February 23, 2001, from David Duncan, the lead auditor of Enron at Andersen, to several Andersen colleagues, describing Enron's reaction to a request that it consider donating funds to the new International Accounting Standards Board.

> Today [Enron Chief Accountant] Rick Causey called to say that Paul Volker had called Ken Lay (Enron Chairman) and asked Enron to make a 5 year, 100k per year commitment to fund the Trust Fund of 'the FASB's International equivalent' . . . . While I believe Rick is inclined to do this given Enron's desire to increase their exposure and influence in rulemaking broadly, he is interested in knowing whether these type of commitments will add any formal or informal access to this process (i.e., would these type commitments present opportunities to meet with the Trustees of these groups or other benefits). I think any information along this front or further information on the current strategic importance of supporting these groups for the good of consistent rulemaking would help Enron with its decision to be supportive.

First, let me be clear that I'm not suggesting in any way that Paul Volker's request of Enron for a contribution to FASB's international equivalent was in any way improper. It wasn't. That is exactly how these accounting standards boards get funded. And the response by Enron is not really suprising, it's something we've all known but we've never had written confirmation of it. Contributions to the accounting standards boards affect the boards' independence, and that's bad news for reliable accounting.

No one was mincing any words here. Enron wanted to know whether its money would buy access and influence at the new accounting standards board, and its auditor didn't bat an eye at this inquiry but asked his colleagues for ''any information along this front.''

The bill we are introducing today does not require that stock options be charged to earnings. That is a decision for the accounting standards boards to make. And many of us in Congress will be working on legislation to make the accounting standards board more independent and less vulnerable to pressures from its contributors. The legislation we are offering today would simply state, in essence, that companies can take a tax deduction or tax credit for stock option expenses only to the extent that the company actually recognizes the same stock option expenses in the company books.

The bill does not get into the accounting side of the issue. It does not, for example, tell companies that they have to expense stock options. It does not tell them when to take a stock option expense or how to book that expense. It focuses solely on the income tax deduction and states, in essence, that any tax deduction must mirror the company books. If a company declares a stock option expense on its books, then the company can deduct the expense on its tax return. If there is no stock option expense on the company books, there can be no expense on the company tax return.

That's tax honesty. That will end the stock option double standard.

The stock option double standard has been a long festering problem in corporate America. It has been one of the driving engines of stretching accounting rules to increase the value of a company's stock. Enron has put a face on this faceless problem and shown the cost of off-the-books stock option pay. Like other accounting gimmicks, off-the-books stock option pay coupled with a large tax deduction doesn't pass the smell test, because we all know that ''off-the-books'' means stealth compensation that is harder to track and easier for insiders to abuse. Add to the stealth factor and the insider abuse factor, a government policy of giving large corporate tax deductions which can completely eliminate a company's tax liability, and you've set the stage for just the type of stock option results we saw at Enron.

It is time to end the stock option double standard, and I urge all of my colleagues to support enactment of this legislation this year.

I ask unanimous consent to print in the RECORD, a bill summary, a section-by-section analysis, and the following materials: ''Less than Zero Enron's Corporate Income Tax Payments, 1996–2000'' (Citizens for Tax Justice, January 17, 2002); Duncan email (2/23/01); ''Enron's fall fuels push for stock option law'' (USA Today, 2/8/02); ''Even Last Year, Option Spigot Was Wide Open'' (New York Times, 2/3/02); ''Stock Option Madness'' (Washington Post, 1/30/02); ''Enron's Way: Pay Packages Foster Spin, Not Results'' (New York Times, 1/27/02); and stock option survey results by Association for Investment Management Research, as posted on the AIMR website on 2/8/02.

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

[From Citizens for Tax Justice, Jan. 17, 2002]

LESS THAN ZERO: ENRON'S CORPORATE INCOME TAX PAYMENTS, 1996–2000

A January 17, analysis of Enron's financial documents by Citizens for Tax Justice finds that Enron paid no corporate income taxes in four of the last five years—although the company was profitable in each of those years.

Over the five-year period from 1996 to 2000, Enron received a net tax rebate of $381 million. This includes a $278 million tax rebate in 2000 alone.

Over the same period, the company's profit before federal income taxes totaled $1.785 billion. In none of these years was the company's profit less than $87 million.

LESS THAN ZERO: CORPORATE INCOME TAX PAYMENTS BY ENRON, 1996 TO 2000

[Dollars in millions]

	2000	1999	1998	1997	1996	96-00
U.S. profits before federal income taxes	$618	$351	$189	$87	$540	$1.785
Tax at 35% corporate rate would be	216	123	66	30	189	625
Less tax benefits from stock options	−390	−134	−43	−12	−19	−597
Less tax savings from other loopholes, etc.	−104	−94	−36	−1	−173	−409
Federal income taxes paid (+) or rebated(−)	−278	−105	−13	17	−3	−381

At the 35 percent tax rate, Enron's tax on profits in the past five years would have been $625 million, but the company was able to use tax benefits from stock options and other loopholes to reduce its five-year tax total to substantially less than zero.

Among the loopholes used to reduce the company's tax liability was the creation of more than 800 subsidiaries in ''tax havens'' such as the Cayman Islands.

SUMMARY OF LEVIN-MCCAIN-FITZGERALD-DURBIN ENDING THE DOUBLE STANDARD FOR STOCK OPTIONS ACT, FEBRUARY 13, 2002

The Enron fiasco has brought to light a long-festering problem in how some U.S. corporations use stock options to avoid paying U.S. taxes while overstating earnings. According to one recent analysis reported in the New York Times, Enron apparently failed to pay any U.S. tax in four out of last five years, despite skyrocketing revenues and an alleged five-year pre-tax income from 1996 to 2000, of $1.8 billion. To sidestep paying about $625 million in taxes on its $1.8 billion in income, Enron apparently claimed stock option tax deductions totaling almost $600 million. At the same time, Enron never reported this $600 million as an expense on its financial statements—an expense which, had it been reported, would have reduced Enron's income by one-third.

Enron was able to employ this stock option double standard, because of accounting rules that allow stock option compensation to be kept off a company's books. Right now, many U.S. companies routinely give their executives large numbers of stock options as part of their compensation. When an executive exercises those options, the company can claim a corresponding compensation expense on its tax return, while at the same time employ accounting rules to omit reporting any expense at all on its books. The company can tell Uncle Sam one thing and its shareholders the opposite. That's just what Enron did—it lowered its tax bill by claiming stock option expenses on its tax returns, while overstating its earnings by leaving stock option expenses off its financial statements.

The stock option loophole Enron used makes no sense, but when the Financial Accounting Standards Board—the board that issues accounting standards—tried to change the rules ten years ago, corporations and audit firms fought the Board tooth and nail. They demanded that companies be allowed to continue to keep stock option compensation off the books. In the end, the best the Board could get was a footnote noting the earning charge that should be taken on a company's books. But that stock option footnote—like so many Enron footnotes—doesn't tell the true financial story of a company.

It's time to end the stock option double standard. The Levin-McCain-Fitzgerald-Durbin bill would not legislate accounting standards for stock options or directly require companies to expense stock option pay, but it would require companies to treat stock options on their tax returns the exact same way they treat them on their financial statements. In other words, a company's stock option tax deduction would have to mirror the stock option expense shown on the company's books. If there is no stock option expense on the company books, there can be no expense on the company tax return. If a company declares a stock option expense on its books, then the company can deduct exactly the same amount in the same year on its tax return. The bill would require companies to tell Uncle Sam and their stockholders the same thing—whether employee stock options are an expense and, if so, how much of an expense against company earnings. Enron has already shown how much damage, if not corrected, that the existing stock option double standard can inflict on company bookkeeping, investor confidence, and tax fairness.

The bill cosponsors are Senators Levin, McCain, Fizgerald and Durbin, and the bill is expected to be referred to the Senate Committee on Finance.

SECTION-BY-SECTION ANALYSIS OF ENDING THE DOUBLE STANDARD FOR STOCK OPTIONS ACT

SECTION 1. SHORT TITLE. The short title of the bill is ''Ending the Double Standard for Stock Options Act.''

SECTION 2. STOCK OPTION DEDUCTIONS AND TAX CREDITS. This section of the bill would amend two Internal Revenue Code sections to address stock options compensation. The first tax code section, 26 U.S.C. 83(h), addresses employer deductions for employee wages paid for by a stock option transfer. The second tax code section, 26 U.S.C. 41(b)(2)(D), addresses employer tax credits for research expenses, including employee wages.

Subsection (a) of this section of the bill would add a new paragraph (2) to the end of 26 U.S.C. 83(h) that would restrict the compensation deduction that a company could claim for the exercise of a stock option by limiting the stock option deduction to the amount that the company has claimed as an expense on its financial statement. This section would also make it clear that the deduction may not be taken prior to the year in which the employee declares the stock option income. In addition, a new subparagraph (2)(B) would require the Treasury Secretary to promulgate rules to apply the new restriction to cases where a parent corporation might issue stock options to the employees of a subsidiary corporation or vice versa.

Subsection (b) of this section of the bill would add a new clause (iv) to the end of 26 U.S.C. 41(b)(2)(D). This new clause would restrict the research tax credit that a company could claim for employee wages paid for by the transfer of property in connection with a stock option by saying that the amount of the credit shall not exceed the amount of the corresponding stock option deduction allowed under 26 U.S.C. 83(h).

The purpose of both new statutory provisions is to ensure that any stock option deduction or credit claimed on a taxpayer's return will mirror, and not exceed, the corresponding stock option expense shown on the taxpayer's financial statement. If no stock option expense is shown on the taxpayer's financial records, there can be no expense taken as a deduction or credit on the taxpayer's return. If a taxpayer declares a stock option expense on its financial statement, then the taxpayer is permitted to claim a corresponding deduction or credit on its return in the same taxable year for exactly the same amount of expense.

Subsection (c) of the bill provides that the amendments made by the Act apply only to wages and property transferred on or after the date of enactment of the Act.

To: Steve M. Samek@ANDERSEN WO; Lawrence A. Reiger@ANDERSEN WO; Gregory J. Jonas@ANDERSEN WO; Jeannot Blanchet@ANDERSEN WO
CC: Michael L. Bennett@ANDERSEN WO; D. Stephen Goddard Jr.@ANDERSEN WO
Date: 02/23/2001 09:56 AM
From: David B. Duncan
Subject: Enron Funding of FASB Trust
Attachments:

I recently asked Enron to consider funding the FASB Trust pursuant to a Steve Samek request.

Today, Rick Causey called to say that Paul Volker had called Ken Lay (Enron Chairman) and asked Enron to make a 5 year, 100k per year commitment to fund the Trust Fund of ''the FASB's International equivalent'' (best Rick could remember). Lay is asking Causey if this is something that they should do.

While I believe Rick is inclined to do this given Enron's desire to increase their exposure and influence in rulemaking broadly, he is interested in knowing whether these type of commitments will add any formal or informal access to this process (i.e., would these type commitments present opportunities to meet with the Trustees of these groups or other benefits). I think any information along this front or further information on the current strategic importance of supporting these groups for the good of consistent rulemaking would help Enron with its decision to be supportive.

Could any of you guys help me out with more information or point me to someone who could? Thanks.

[From USA Today, Feb. 8, 2002]

ENRON'S FALL FUELS PUSH FOR STOCK OPTION LAW

(Matt Krantz and Del Jones)

The Enron implosion has breathed life into legislation that business leaders thought they had killed in the mid-1990s.

In a highly controversial move, at least three senators want to end the legal tax deductions companies take for stock options they issue to executives and workers unless they subtract the same expense from their earnings.

As it is, almost every company takes a tax deduction for options, but ignores them when it comes to reporting their profits. Among the S&P 500, only Boeing and Winn-Dixie follow the advice of the Financial Accounting Standards Board in recording the cost of options on both ledgers, says David Zion, analyst with Bear Stearns. The rest are like Enron, which took a $625 million tax deduction for options from 1996 to 2000, yet legally included the $625 million on its earnings.

If stock options were treated as an expense, the earnings reported by firms in the S&P 500 would have been 9% lower in 2000, Zion says. Technology companies, more likely to use options for rank-and-file compensation, would be harder hit. Fourteen companies, including Yahoo and Citrix Systems, would have posted losses in 2000, rather than gains. Microsoft and Cisco take large tax deductions for options.

Options are contracts that allow the purchase of stock, usually within five years, at today's price. If the stock rises, the stock can be bought at a discount.

Conventional wisdom has long held that options align the goals of executives and workers with those of the shareholders. Enron has given pause to that thinking because its executives artificially boosted the stock price at the risk of shareholders.

Outright frauds is rare, but at least a half-dozen academic studies have concluded that

companies time the release of good or bad news near the date that executives are issued their options, orchestrating a potential windfall.

Sens. Carl Levin, D-Mich., John McCain, R-Ariz., and Peter Fitzgerald, R-Ill., are dusting off the tax-deduction proposal that was defeated by a vote of 88–9 in 1994. At the time, Home Depot founder and CEO Bernard Marcus said he had ''never been more strongly opposed to anything.''

Citigroup CEO Sanford Weill was quick out of the chute Thursday, warning on CNBC's Squawk Box not to get into an Enron frenzy and hurry through bad legislation.

But Matt Ward, CEO of WestWard Pay Strategies, an options consulting firm in San Francisco, says he fears the legislation stands a better chance of passing this time because of what he calls the ''Enron thieves'' and because technology companies have been weakened by the economy and don't have the resources or energy to influence Washington.

Ward says a law change would result only in rank-and-file employees losing their stock options. CEOs would continue to get theirs, he says.

''Noises are coming from Washington because some oil company guys have been greedy,'' Ward says.

David Yermack, associate professor of finance at New York University's Stern School of Business, says he doubts if stock options could have pushed Enron executives into hiding millions of dollars of losses in off-book partnerships. That said, there is no reason options should not count against earnings jut as cash compensation does.

''If Enron has made them reconsider this horrible position, there is silver lining to this debacle,'' Yermack says.

More than 80% of financial analysts and portfolio managers agree with Yermack, according to a survey by the Association for Investment Management and Research.

''I'm dissatisfied with using fuzzy numbers in doing accounting,'' says Dick Wagner, president of the Strategic Compensation Research Associates.

[From the New York Times, Feb. 3, 2002]

EVEN LAST YEAR, OPTION SPIGOT WAS WIDE OPEN

(By Stephanie Strom)

Surprise, surprise. Early reports suggest that top executives across America got a bigger dollop of stock options last year as part of their pay.

As corporate earnings and cash flow have ebbed and stock prices have fallen, boards have been doling out options as a cheap, balance-sheet-friendly way of compensating mangers. The annual proxy season, when companies reveal compensation, is just starting. If the disclosures show the trend toward larger option grants holding after a year that most companies would lie to forget, it would seem to make a mockery of the concept of pay for performance. That was the reason options grew so popular in the first place. Yet while some companies are trying to make options better reflect their fortunes, most other simply contend that options are primarily a motivational tool and have never been a reward for performance.

With stock prices stalled, options may not seem attractive now. But executives who receive them can usually count on rich rewards eventually, even if a company does only marginally better. The increase in options, however imposes additional costs on shareholders; the more options granted, the lower the return for investors, since their holdings are, one way or the other, diluted.

But the options keep coming. Chief executives who received more of them last year, even as their companies suffered, include Daniel A. Carp of Eastman Kodak, John T. Chambers of Cisco Systems, Scott G. McNealy of Sun Microsystems and Harvey R. Blau of Aeroflex

And Henry B. Schacht, returning to the helm of troubled Lucent, received annual options grants almost five times the size of those his predecessor received—and more than 17 times the size of the last grant he received the year he retired. ''Fiscal 2001 was rather challenging for Lucent, so the grants were made to ensure Henry had management stability through the turnaround,'' said Mary Lou Ambrus, a Lucent spokeswoman, in explanation.

Changes are, many chief executives received bigger options awards, as proxy statements, filed each March and April by most companies, are expected to show, experts say. Some were no doubt issued to make up for previous grants that had been rendered worthless by tumbling stock prices.

At the same time, the market's recovery has revived hopes that old option grants will not be worthless. ''Options typically run for 10 years, and already many of the ones issued in the last year are back in the money,'' said John N. Lauer, chief executive of Oglebay Norton, a shipping company. ''If the economy recovers, those issued in previous years will also regain value.''

Mr. Lauer has gained notoriety in corporate circles for his insistence on being paid entirely in options priced well above Oglebay's stock price. Though Oglebay's performance has improved somewhat, options he received five years ago are still worth nothing.

''In a social setting where I'm in a room with other C.E.O.'s, someone will teasingly suggest that they pass the hat for me because I'm not making any money,'' he said. ''I think they figure I'm loony or something.''

Mr. Lauer is not the only executive to have high performance goals, but it is safe to say that most executives keep drawing large salaries, plus more and more options. According to a survey done in the third quarter of last year by Pearl Meyer & Partners, a human resources consulting firm in New York, the number of options granted by 50 major companies that will report their 2001 compensation this spring was up an average of 12 percent from 2000.

Consultants expect that trend to continue as companies report 2001 compensation practices this spring. ''It's a great time to give options,'' said Pearl Meyer, president of the firm. ''They're cheap because they involve no charge to earnings, and that's important at a time when profits are down and boards are trying to make up for the fact that salaries and bonuses are both down.''

But Ms. Meyer and many others in the field—as well as, they say, the members of corporate compensation committees—are not happy to see the increase in options grants. Their expressions of concern are striking because of compensation consultants have been among the biggest champions of the use of options as performance incentives.

The consultants are worried, in part, about the option ''overhang''—options outstanding, plus those shares that investors have authorized but that have yet to be granted. More fundamentally, they suggest that the links between a manager's pay and a company's performance—as measured by, say, profitability, market-share growth and smart acquisition strageties—have become more tenuous.

Ms. Meyer suggests that the at-risk components of executive pay be viewed as the legs of a stool; the legs reflecting stock performance has grown longer and longer, while those reflecting business and financial performance have become shorter.

''We have overdosed on options and the stock market,'' she said. ''We're dependent on the stock market for executive compensation, pension payments, directors' compensation, 401(k) plans—our whole economy, practically, is dependent on the market's performance.''

That reliance has produced an overhang that dangles like a sword of Damocles over investors. Eventually, their stakes will be diluted—either when companies issue vast quantities of new shares to make good on options grants, or when they undertake share-repurchase programs that eat up cash they might use for operations.

According to a study by Watson Wyatt Worldwide, a human resource consulting company, the average options overhang of the companies in the Standard & Poor's 500-stock index was 14.6 percent of outstanding shares in 2000, up from 13 percent a year earlier.

This spring's numbers will probably show another rise. The overhang ''is definitely going to be up'' by a percentage point or more in 2001, said Ira T. Kay, a consultant at Watson Wyatt Worldwide, ''because people aren't exercising their options the way they were when the stock market was booming.''

Mr. Kay predicted that the slowdown in the exercising of options would work to curb the issuing of new ones this year and next, although he anticipates a slow increase over the long term. ''I've been in meetings of five boards that were very reluctant to go to shareholders to ask for more shares to underwrite options grants,'' he said, ''They don't think they can justify it.''

Companies are losing out on another salutary benefit of options compensation as well—their ability to reduce corporate taxes. Employers get a deduction when employees exercise options, but as Mr. Kay and other compensation consultants note, these days few are cashing them in.

Oddly, shareholder advocates and institutional investors, who stand to lose the most from an option glut, seem sanguine thus far. Some note that while option awards have increased, the value of the awards has collapsed. Pearl Meyer's research shows that the value of option grants fell 7 percent in the first eight months of 2001 after rising steadily for several years.

Some shareholder advocates say that will also help curb future grants, as long as stocks are sluggish.

''We've had a 20 percent drop in the Standard & Poor's index,'' said Patrick S. McGurn, of Institutional Shareholder Services, a consulting business in Rockville, MD. ''And the standard valuation method for options would tell that you'd have to double or triple grants just to get to the level where you were the previous year. Most boards are going to balk at those numbers, particularly when corporate performance has been so poor.''

But that may be wishful thinking. Last year, Eastman Kodak took $659 million in restructing charges that, combined with falling sales and market share, pushed its earning down 95 percent. In November it awarded its chief executive, Mr. Carp, options for 250,000 shares at an exercise price of $29.31, Kodak's stock price at the time. All Mr. Carp must do to gain is keep Kodak's stock level.

That grant came on top of the 100,000 options he received in January 2001 at a strike price of $40.97. So Mr. Carp received three and a half times as many options in 2001 as he did in 2000—at markedly lower strike prices. Sandra R. Feil, director for worldwide total compensation at Kodak, said Mr. Carp received two awards last year because the company had changed the time of its grants, to November from January.

As for the increase, Ms. Feil said Kodak had worked with Frederic W. Cook & Company, a compensation consultant, which

found that Mr. Carp was in the lowest 25 percent of executives receiving options. ''What we've done,'' she said, ''is taken a step, and even a conservative step at that, in getting him out of the lowest quartile.''

But what about Kodak's dismal performance last year? ''We look at stock options as a long-term incentive that's forward-looking,'' Ms. Feil said. ''We don't look at them as a reward for past performance.

To understand just how easy it is to get richer and richer on options, consider the case of Lawrence J. Ellison, chairman, chief executive and co-founder of the Oracle Compensation, the software maker. In January, with Oracle's stock trading just above $30, near its yearly high of $34, Ellison exercised option grants for about 23 million shares at an average price of 23 cents, for a paper profit of more than $700 million.

It was the biggest options bonanza on record—and Mr. Ellison holds options to buy an additional 47.9 million shares. ''He could end up taking $3 billion out of the company,'' said Judith Fischer, managing director of Executive Compensation Advisory Services, a consulting firm.

Investors are often forgiving of founders like Mr. Ellison, many of whom staked personal assets and invested buckets of sweat equity to get companies off the ground. His paper profit has shrunk to $378 million as Oracle's stock has sagged.

But investors were still piqued by Mr. Ellison's timing. He exercised his options a month before Oracle issued an earnings warning. The options expired on Aug. 1; he was under no pressure to sell them in January.

To protect shareholders from dilutions from options, Oracle routinely buys shares in the market. Other big corporate users of options, like Microsoft and Dell Computer, do, too, contending that it not only protects shareholders, but offers them tax advantages.

But repurchase programs can also have a huge impact on a company's cash flow. Oracle started the fiscal year that began June 1, 2000, with $7.4 billion in cash, then spent $4.3 billion to repurchase shares largely for use in its options program.

At the end of the fiscal year, the company's overhang stood at 28 percent of total outstanding shares. Microsoft has a similarly large overhang, but it also has more cash.

For years, shareholders have pushed companies to make chief executives earn their keep, and they initially applauded the use of options to accomplish that goal. But companies found ways to make sure the options were worth something regardless of performance, by repricing worthless options or replacing them with fistfulls of new ones.

The outcry over those practices, however, may be pushing some companies to make changes.

In the spring of 1999, the Longview Collective Investment Fund, which manages some A.F.L.–C.I.O. pension money, submitted a shareholder proposal to the Chubb Corporation, the insurer, asking it to grant options that would more closely align compensation with performance.

The proposal was defeated. But when Beth W. Young, an independent consultant who advises the A.F.L.–C.I.O. and other pension fund managers, called Chubb the next spring to resubmit the proposal, she was told that Chubb had already incorporated into its incentive plan options that could be exercised only if the stock price rose significantly.

Roughly half the options handed out to Chubb's senior management in 2000 and 2001 have an exercise price 25 percent higher than the stock price on the day they wre granted. But only 2 percent to 4 percent of large companies use such ''premium priced'' options, consultants say.

''The executives who were granted these options will, at least in theory, have a much stronger incentive to take steps to increase the stock price,'' said Donald B. Lawson, the Chubb senior vice president who manages compensation and benefits.

Chubb also uses ''performance shares,'' which can typically be redeemed only after three years and only if the company clears specific hurdles. In 2000, for example, the performance shares it handed out in 1998 were worthless because the company did not hit those targets.

For Dean R. O'Hare, Chubb's chief executive, that meant his total compensation fell by $448,508 from the previous year. he did get more options, but those largely replaced restricted shares—those that cannot be sold right away—after the company decided not to use them to reward executives, Mr. Lawson said.

Performance shares held by C. Michael Armstrong, the chief executive of AT&T, have proved to be worthless for three years as the company has fallen short of the board's goals for increases in total return to shareholders.

An options award for 419,200 shares granted to Mr. Armstrong at the end of 2000 was also tied to better performance. The options can be exercised only if AT&T produces a $145 billion pretax gain for shareholders in the year that started March 31. On the other hand, another twist on options accelerates the vesting period if a company's shares reach a certain target. In 2000, the Williams Companies granted options with the condition that if, on certain days, the stock traded at 1.4 times the price at the beginning of the year, the options could be exercised immediately rather than over three years.

Other companies are working to get more plain-vanilla stock, not options, into executives' hands—stock they must buy. When Beazer Homes USA, a home builder, went public in 1994, it adopted a management stock purchase program to increase managers' stakes. At the beginning of each year, some 80 executives can choose to give up a percentage of their bonuses to buy stock at a 20 percent discount on the year-end closing price. The stock cannot be sold for three years.

Executives now own roughly 8 percent of the company, said David S. Weiss, Beazer's chief financial officer. ''We think it's a good idea to have them put real money at risk, as opposed to just receiving a reward,'' he said. ''Options feel like a gift from the company that the market, through its whims, will reward or not. Shares reflect the company's performance, whether good or bad.''

Mr. Kay, at Watson Wyatt, said such pure stock subsidies were gaining popularity. More companies, he said, plan to use contingent options like those at Chubb and AT&T, which try to reflect financial and business performance.

Investors expect the BellSouth Corporation and the Eaton Corporation, for example, to disclose such adjustments in their new proxy statements. A spokesman for Eaton said he was unaware of such a move, and a spokesman for BellSouth declined to comment until the proxy is released in March.

But other boards are already finding ways to limit the risks that performance shares, premium-priced options, performance-accelerated options and other performance-linked tools pose.

Until last April, Archie W. Dunham, chief executive of Conoco, had options giving him the right to buy 700,000 shares. But he could exercise them only if Conoco's shares traded about $35 on each of the five days before Aug. 17 of this year.

Before Conoco bought Gulf Canada Resources in July, however, its board granted a two-year extension to Mr. Dunham and at least six other executives holding those options. ''The board thought the climate was right this year for some kind of an acquisition but that it could have an adverse effect on the stock price,'' John McLemore, a Conoco spokesman, said. ''They thought it wouldn't be really fair for those people who held these options to be punished for something that might make it harder for them to meet the conditions.''

That means the board rewarded Mr. Dunham and his colleagues for an acquisition that it knew was likely to hurt Conoco's shares, at least temporarily—a courtesy not extended to shareholders.

[From the Washington Post, Jan. 30, 2002]

STOCK OPTION MADNESS

(By Robert J. Samuelson)

As the Enron scandal broadens, we may miss the forest for the trees. The multiplying investigations have created a massive whodunit. Who destroyed documents? Who misled investors? Who twisted or broke accounting rules? The answers may explain what happened at Enron but necessarily why. We need to search for deeper causes, beginning with stock options. Here's a good idea gone bad—stock options foster a corrosive climate that tempts many executives, and not just those at Enron, to play fast and loose when reporting profits.

As everyone knows, stock options exploded in the lasted 1980s and the 1990s. The theory was simple. If you made top executives and managers into owners, they would act in shareholders' interests. Executives' pay packages became increasingly skewed toward options. In 2000, the typical chief executive officer of one of the country's 350 major companies earned about $5.2 million, with almost half of that reflecting stock options, according to William M. Mercer Inc., a consulting firm. About half of those companies also had stock-option programs for at least half their employees. Up to a point, the theory worked. Twenty years ago, America's corporate managers were widely criticized. Japanese and German companies seemed on a roll. By contrast, their American rivals seemed stodgy, complacent and bureaucratic. Stock options, were one tool in a managerial upheaval that refocused attention away from corporate empire-building and toward improved profitability and efficiency.

All this contributed to the 1990s' economic revival. By holding down costs, companies restrained inflation. By aggressively promoting new products and technologies, companies boosted production and employment. But slowly, stock options became corrupted by carelessness, overuse and greed. As more executives developed big personal stakes in options, the task of keeping the stock price rising became separate from improving the business and its profitability. This is what seems to have happened at Enron.

The company adored stock options. About 60 percent of employees received an annual award of options, equal to 5 percent of their base salary. Executives and top managers got more. At year-end 2000, all Enron managers and workers had options, that could be exercised for nearly 47 million shares. Under a typical plan, a recipient gets an options to buy a given number of shares at the market price on the day the option is issued. This is called ''the strike price.'' But the option usually cannot be exercised for a few years. If the stock's price rises in that time, the option can yield a tidy profit. The lucky recipient buys at the strike price and sells at the market price. On the 47 million Enron options, the average ''strike price was about

$30 and at the end of 2000, the market price was $83. The potential profit was nearly $2.5 billion.

Given the huge reward, it would have been astonishing if Enron's managers had not become obsessed with the company's stock price and—to the extent possible—tried to influence it. And while Enron's stock soared, why would anyone complain about accounting shenanigans? Whatever the resulting abuses, the pressures are not unique to Enron. It takes a naive view of human nature to think that many executives won't strive to maximize their personal wealth.

This is an invitation to abuse. To influence stock prices, executives can issue optimistic profit projections. They can delay some spending, such as research and development (this temporarily helps profits). They can engage in stock buybacks (these raise per-share earnings, because fewer shares are outstanding). And, of course, they can exploit accounting rules. Even temporary blips in stock prices can create opportunities to unload profitable options.

The point is that the growth of stock options has created huge conflicts of interest that executives will be hard-pressed to avoid. Indeed, many executives will coax as many options as possible from their compensation committees, typically composed of ''outside'' directors. But because ''directors are [manipulated] by management, sympathetic to them, or simply ineffectual,'' the amounts may well be excessive, argue Harvard law professors Lucian Arye Bebchuk and Jesse Fried and attorney David Walker in a recent study.

Stock options are not evil, but unless we curb the present madness, we are courting continual trouble. Here are three ways to check the overuse of options:

(1) Change the accounting—count options as a cost. Amazingly, when companies issue stock options, they do not have to make a deduction to profits. This encourages companies to create new options. By one common accounting technique, Enron's options would have required deductions of almost $2.4 billion from 1998 through 2000. That would have virtually eliminated the company's profits.

(2) Index stock options to the market. If a company's shares rise in tandem with the overall stock market, the gains don't reflect any management contribution—and yet, most options still increase in value. Executives get a windfall. Options should reward only for gains above the market.

(3) Don't reprice options if the stock falls. Some corporate boards of directors issue new options at lower prices if the company's stock falls. What's the point? Options are supposed to prod executives to improve the company's profits and stock price. Why protect them if they fail?

Within limits, stock options represent a useful reward for management. But we lost those limits, and options became a kind of free money sprinkled about by uncritical corporate directors. The unintended result was a morally lax, get-rich-quick mentality. Unless companies restore limits—prodded, if need be, by new government regulations—one large lesson of the Enron scandal will have been lost.

[From the New York Times, Jan. 27, 2002]

ECONOMIC VIEW; ENRON'S WAY: PAY PACKAGES FOSTER SPIN, NOT RESULTS

(By David Leonhardt)

As the stock plummeted, investors and employees alike were left with big losses. But one group of shareholders came out ahead—management. Many board members and top executives managed to sell millions of dollars of shares before the big fall and still have something to show for the stock's once-lofty price.

This is the story of Enron, of course, but it hardly ends there. Over the last two years, as the stock market has fallen about 30 percent from its peak, the description fits dozens of other companies as well. For example, Roger G. Ackerman, the former chairman of Corning, sold $14 million of the company's stock last year, mostly when it was trading at about $57 a share, or seven times its current price. Donald R. Scifres, the co-chairman of JDS Uniphase, made $23 million selling company shares last year; the stock has lost nearly 90 percent of its value since January 2001. David R. Alvarez sold $14 million worth of stock in Providian Financial, where he is vice chairman, last year before the company acknowledged that its balance sheet wasn't quite what it was cracked up to be. The stock, which traded at $60 a share last summer, now trades at around $4.

Some of the biggest paydays have come at obscure companies that were once market darlings, John J. Moores, better known as the owner of the San Diego Padres baseball team, made $101 million last year selling shares of Peregrine Systems, on whose board he serves, before its shares fell by more than two-thirds. Richard Aube, a director at Capstone Turbine, made $51 million selling its stock last year, according to Thomson Financial. If you bought when we sold at around $30 a share, your investment would be showing an 80 percent loss now.

The contrast is obviously cringe-inducing. But it is more than that. Even when executives simply fail to live up to their own predictions—rather than break the law, as some people suspect that Enron managers did—the big insider paydays offer a good lesson in how economic incentives are askew in corporate America.

Corporate spin aside, executives do not always prosper most by making their companies great. They can often profit more from creating unrealistic expectations than from delivering consistently impressive results.

Consider two companies. One has a stock price that has appreciated slowly, starting at $20 five years ago and gaining $2 a year, to $30 today. The second company's stock also started at $20 five years ago, then zoomed to $100 after a few years but has since fallen back to $20.

By any reasonable measure, the leaders of the first company have done a better job. Their share price has grown 50 percent, and they have avoided making gradiose predictions that cause Wall Street analysts to set silly targets. The second company has a stock that has underperformed a savings account over the long run, and scores of workers and investors have been burned by false hopes.

Yet if the top executives of both companies had received similar amounts of stock and both sold their shares on a regular schedule, the executives of the second company would actually be ahead. They would have made so much money selling the stock when it was trading near $100 that they would be multimillionaires despite the humbling decline.

This is the Enron model of pay for performance, and it has become common. Executives receive enormous grants of stock or options, saying they are simply aligning their own interests with those of their shareholders. But the packages are so generous that even a temporary rise in the share price, accompanied by the sale of a portion of an executive's stock, can leave him set for life. The appeal of overly aggressive accounting methods and manipulated earnings becomes obvious.

''You're providing C.E.O.'s with a perverse incentive,'' said Nell Minow, the editor of the Corporate Library, a research firm in Washington. ''You're rewarding them for a goal that is not in the interest of long-term shareholders.''

The executives who have made millions of dollars selling once-expensive shares say they have done nothing wrong. They simply followed a regular, legal schedule of selling stock, they say, and would be far richer if the stock price had not dropped.

All of that is usually true. But it is also true that when an economic system richly rewards certain behavior, no one should be surprised when that behavior becomes the norm. If you want to change it, you have to change the incentives. The Enron mess has the potential to focus people's attention on the complicated task of doing precisely that.

[From AIMR Exchange, Jan.–Feb. 2002]

EMPLOYEE STOCK OPTIONS SHOULD BE EXPENSED ON INCOME STATEMENTS, SURVEY SHOWS

In September 2001, AIMR surveyed more than 18,000 members to gauge their responses to a proposed agenda topic of the International Accounting Standards Board (IASB) that could require companies to report the fair value of stock options granted—including those to employees—as an expense on the income statement, reducing earnings. Although share-based payments to employees and others are increasing worldwide, few countries currently have national standards on the topic.

Do you consider share-based (or stock option) plans to be compensation to the parties receiving the benefits of these plans?

Answer. Yes, 88%; no, 6%; it depends, 6%.

Do firms you evaluate and monitor have shared-based (or stock option) plans that grant shares of the firm's stock?

Answer. Yes, 85%; no, 6%; not sure, 9%.

Do you use the information and data that companies provide on share-based plans in your evaluation of the firm's performance and determination of its value?

Answer. Yes, only when it is recognized as a compensation in the income statement; 15%; yes, regardless of whether it is recognized in the income statement, 66%; no, 19%.

Survey results are based on a random polling of more than 18,000 AIMR members, with a 10% response rate.

Do the current accounting requirements for share-based payments need improving, in particular, for those plans covering employees?

Answer. Yes, 74%; no, 26%.

Should the accounting method for all share-based payment transactions (including employee stock option plans) require recognition of an expense in the income statement?

Answer. Total response: Yes, 83%; no, 17%.

Mr. MCCAIN. Mr. President, I rise today to introduce legislation with Senators LEVIN, FITZGERALD, and DURBIN, entitled Ending the Double Standard for Stock Options Act. This legislation requires companies to treat stock options for employees as an expense for bookkeeping purposes if they want to claim this expense as a deduction for tax purposes. We introduced similar legislation in 1997 during the 105h Congress but unfortunately, the special interest with a vested stake in the status quo prevented this legislation from seeing the light of day.

Currently, corporations can hide these multimillion-dollar compensation plans from their stockholders or other investors because these plans are not counted as an expense when calculating company earnings. Even the Federal Accounting Standards Board, FASB, recognized that stock options

should be treated as an expense for accounting purposes. Accounting disclosure rules issued by FASB require that companies include in their annual reports a footnote disclosing what the company's net earnings would have been if stock option plans were treated as an expense.

The latest scandals involving the collapse of Enron highlight the problem of misleading annual statements and financial statements. According to a recent analysis, from 1996 to 2000, Enron issued nearly $600 million in stock options, collecting tax deductions which allowed the corporation to severely reduce their payment in taxes. Whether or not Enron took advantage of current disclosure rules to hide their financial problems remains a question. The fact remains that current rules allow companies such as Enron to discuss as little as possible. And this prevents investors, Wall Street analyst, corporate executives, and auditors from properly understanding the bottom line of corporations.

One might reasonably ask how an arcane accounting rule could have such a large impact on the bottom line of corporations. The answer lies in the growth and value of stock options as a means of executive compensation.

We have heard the reports of executives making multimillion-dollar salaries, while average worker salaries stagnate or fall. According to one recent report, almost half of the earnings of the typical chief executive officer of a top company reflects stock options. Why shouldn't the value of this compensation package be included in calculating a company's earnings? How can stockowners evaluate the true value of employee compensation if the value is just buried in a footnote somewhere the annual report?

No other type of compensation gets treated as an expense for tax purposes, without also being treated as an expense on the company books. This double standard is exactly the kind of inequitable corporate benefit that makes the American people irate and must be eliminated. If companies do not want to fully disclose on their books how much they are compensating their employees, then they should not be able to claim a tax benefit for it.

This legislation does not require a particular accounting treatment; the accounting decision is left to the company. This legislation simply requires companies to treat stock options the same way for both accounting and tax purposes.

I hope my colleagues will join us in cosponsoring this important legislation that will end the double standard for stock option compensation.

By Mr. LEAHY (for himself and Mr. DURBIN):

S. 1941. A bill to authorize the President to establish military tribunals to try the terrorists responsible for the September 11, 2001 attacks against the United States, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, on November 13, 2001, President Bush signed a military order authorizing the use of military commissions to try suspected terrorists. This order stimulated an important national debate and led to a series of Judiciary Committee hearings with the Attorney General and others to discuss the many legal, constitutional, and policy questions raised by the use of such tribunals. Our hearings, and the continued public discourse, helped to clarify the scope of the President's order and better define the terms of the debate.

For example, the Judiciary Committee held a hearing on November 28, 2001, at which several legal experts challenged the validity of the military order. Philip Heymann of Harvard Law School, a former Deputy Attorney General, testified that the order was so broad that it amounted to a dangerous claim of executive power. In his view, the order improperly bypassed congressional review, undermined confidence in our civil justice system, and jeopardized relationships with our allies abroad. Retired Air Force Colonel Scott Silliman who is now at Duke Law School, questioned the President's authority to use military commissions with respect to the September 11 attacks absent authorizing legislation by Congress. Professor Silliman also echoed the comments of Professor Heymann, arguing that tribunals convened under the order could adversely impact our international credibility as a Nation under the rule of law.

On December 4, 2001, Senator Schumer chaired another important hearing on the issue of military commissions. Harvard Law Professor Laurence Tribe testified at that hearing that ''Congress alone can avoid the constitutional infirmities that plague the Military Tribunal Order of November 13.'' Professor Tribe argued for the establishment of procedural guidelines to ensure the protection of defendants' due process rights, and called for Congress to set limits in consultation with the President. He cautioned that if the Administration acted on its own—under authority that Professor Tribe believed was constitutionally infirm, any convictions could later be overturned by the courts, with the result that dangerous individuals could be set free. By contrast, convictions obtained by military tribunals constituted under the authority of the Congress and the President acting together would more likely be shielded from constitutional challenge on appeal.

At the same December 4 hearing, Cass Sunstein of the University of Chicago Law School testified that ''from the standpoint of both constitutional law and democratic legitimacy, it is far better if the President and Congress act in concert,'' adding that ''the executive branch stands on the firmest ground if it acts pursuant to clear congressional authorization.'' Professor Sunstein suggested that Congress limit the scope of military tribunals by allowing the use of military tribunals ''only on certain essential occasions.''

Finally, on December 6, the Judiciary Committee heard from Attorney General Ashcroft on military commissions and a number of other unilateral actions taken by the Administration last fall. I believe that we had a constructive conversation that day, despite our disagreements on substantive points. The Attorney General took issue with anyone who dared question the thinking of the executive branch on such topics, charging them with ''fearmongering'' and aiding the terrorists. I would note, however, that several members of the Committee, including some of my colleagues from the other side of the aisle, suggested to the Attorney General that if military tribunals were used, they should provide a number of basic due process guarantees. Suggestions like these, coming from both Republicans and Democrats, are not intended to bait the Administration. Rather, constructive criticism can be, should be and has been useful in developing sound policy that can better protect Americans and American soldiers, particularly when they are serving abroad.

The Attorney General testified at our hearing on December 6 that the President does not need the sanction of Congress to convene military commission, but I disagree. Military tribunals may be appropriate under certain circumstances, but only if they are backed by specific congressional authorization. At a minimum, as the distinguished senior Senator from Pennsylvania stated on this floor on November 15, ''the executive will be immeasurably strengthened if the Congress backs the President,'' Clearly, our government is at its strongest when the executive and legislative branches of government act in concert.

We demonstrated this unified strength in negotiating the USA Patriot Act last fall. The Congress, the White House and the Department of Justice worked intensively for seven weeks to craft a bill that provided law enforcement agencies with the tools they said were needed to fight terrorism while preserving American values and democratic principles.

In that same spirit, and with my friend, the senior Senator from Illinois, I am today introducing the Military Tribunal Authorization Act. This legislation would provide the executive branch with the specific authorization it now lacks to use extraordinary tribunals to try members of the al Qaeda terrorist network and those who cooperated with them.

Specifically, this legislation authorizes the use of ''extraordinary tribunals'' for al Qaeda members, and for persons aiding and abetting al Qaeda in terrorist activities against the United States, who are apprehended in, or fleeing from, Afghanistan. It also authorizes the use of tribunals for those al Qaeda members and abettors who are captured in any other place where

there is armed conflict involving the U.S. Armed Forces.

Like the November 13 order, the Military Tribunal Authorization Act exempts U.S. citizens from the jurisdiction of the tribunals, as well as those individuals determined to be prisoners of war under the Geneva Convention. The bill also exempts individuals arrested while present in the United States, since our civilian court system is well-equipped to handle such cases. These exemptions are consistent with the Administration's treatment of Zacharias Moussaoui, the suspected 20th hijacker in the September 11 attacks, who is awaiting trial in Federal district court. A second terrorist suspect, Richard Reid, the so-called ''shoe bomber,'' is also being tried in Federal district court. In fact, one of the nine charges against Reid, ''attempted wrecking of a mass transportation vehicle,'' is a new anti-terrorism offense that was created by the USA Patriot Act. Finally, the Administration has decided to bring Federal criminal charges against John Walker Lindh, who allegedly took up arms against Americans to fight with al Qaeda and the Taliban in Afghanistan.

A significant question raised about the November 13 order is that it vests the President with plenary and unreviewable discretion to determine who is subject to trial by military tribunal. The President's order also implied that those who were arrested under its terms could be held indefinitely. Detainees were to receive a ''full and fair trial,'' but no explanation of the terms ''full'' and ''fair'' is offered. While the Administration has deferred providing any explanation to the development of regulations by the Secretary of Defense, requests for an opportunity to review and be consulted about the draft regulations have been denied. This leaves introduction of legislation showing how military tribunals may be constituted to comport with constitutional mandates and values as one of the few avenues to inform the process in development of regulations.

The Military Tribunal Authorization act defines the jurisdiction and procedure of tribunals in a way that ensures a ''full and fair'' trial for anyone detained. Under the bill, the Secretary of Defense is charged with elaborating on the procedures that the tribunals must follow and publishing any draft regulations in the Federal Register.

First, the bill makes clear that tribunals may adjudicate violations of the law of war, including international laws of armed conflict and crimes against humanity, targeted against U.S. persons. Wars have rules, as defined by the Geneva Conventions and other international agreements. These rules protect civilians from harm and define how captured soldiers must be treated Under the bill, individuals who violated those rules by targeting innocent American civilians can face trial in a military tribunal. In addition, individuals who committed crimes against humanity, such as murder, torture, or other inhumane acts, may face charges in a tribunal.

Second, on the length of detention, the bill authorizes detention of individuals subject to military tribunals for as long as the President certifies that the United States is in armed conflict with al Qaeda or Taliban forces in Afghanistan or elsewhere, or that an investigation, prosecution or post-trial proceeding against the detainee is ongoing. The certification must be made every six months.

Third, on the conditions of confinement, the bill requires that detainees be ''treated humanely,'' which is consistent with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, a resolution adopted by the United Nations General Assembly in 1988. this includes adequate food, water, shelter, clothing and medical treatment, hygienic conditions, the necessary means of personal hygiene, and the free exercise of religion. Detention determinations and the conditions of detention are subject to review by the Court of Appeals for the D.C. Circuit.

Fourth, the bill incorporates basic due process guarantees, including the right to independent counsel. In imposing this requirement, I am not suggesting that suspected terrorists deserve special treatment. Rather, the bill follows well-established standards for indigent defense. In the first of its ''Ten Commandments'' of public defense programs, the Department of Justice calls for full independence of defense counsel and judicial functions. The department's ''Ten Commandments'' also require that counsel's ability, training, and experience must be matched to the complexity of the case. Providing independent counsel and judicial review is critical to ensuring that any convictions are free from political influence. An independent process with experienced counsel will also safeguard against otherwise valid convictions being overturned for violations of due process or incompetent counsel.

Under the terms of this bill, tribunals would be required to apply reasonable rules of evidence to ensure that material admitted at trial was of probative value. Defendants would be presumed innocent until proven guilty, and proof of guilt must be established beyond a reasonable doubt. Defendants may not be compelled to testify against themselves. Finally, defendants could appeal their convictions and sentences to a higher tribunal, the U.S. Court of Appeals for the Armed Forces.

These procedures do not, as some have claimed, provide greater protections to suspected terrorists than we offer our own soldiers. These are, rather, the very basic guarantees provided under various sources of international law, including the Geneva Conventions, the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, and the Statute of the International Criminal Tribunal for former Yugoslavia, among others. Several of the procedural protections are also drawn from the U.S. Rules of Courts-Martial and the Military Rules of Evidence. In addition, the trial procedure statute of the Uniform Code of Military Justice, which is cited in the President's military order, recommends that the President apply to military commissions the principles of law and rules of evidence that are generally recognized by the federal district courts.

I submit for the record a list the international conventions that serve as sources for the eighteen procedural protections included in my bill. As the ABA resolution urges, in establishing military tribunals, we should ''give full consideration to the impact . . . as precedents in . . . the use of international legal norms in shaping other nations' responses to future acts of terrorism.'' Respecting those international legal norms, will redound to the benefit of Americans.

It is important to note that last week the President reevaluated his position on a related issue. He decided to apply the Geneva Conventions to Taliban captives. This decision sends a signal to the world that the United States respects the Geneva Conventions and expects them to be applied to American soldiers captured overseas. I commend Secretary Powell, who supported this application of the Geneva Conventions. I also commend Secretary Rumsfeld, whose draft rules on military commissions contained a number of important procedural protections. Both Secretaries Powell and Rumsfeld have worked to bring the original military order and subsequent decisions over detention within the framework of international law. I urge the Administration to follow this example of flexibility and inclusiveness by working with Congress to establish tribunals that are authorized by statute and consistent with international law.

Finally, the bill comes down squarely on the side of transparency in government by providing that tribunal proceedings should be open and public, and include public availability of the transcripts of the trial and the pronouncement of judgment. The only exceptions are for demonstrable reasons of national security or the necessity to secure the safety of observers, witnesses, tribunal judges, counsel or other persons.

In sum, the Military Tribunal Authorization Act establishes a legal framework for proceedings that are truly ''full and fair.'' The provisions of this bill track very closely with recommendations arrived at independently by the American Bar Association and issued on February 4, 2002. The ABA calls on the executive branch to provide due process guarantees similar to those used in courts-martial, including a number of rights included in this

bill. It also urged the Administration to work with Congress in defining the rules for military commissions.

Passage of authorizing legislation would ensure the constitutionality of military tribunals and protect any convictions they might yield, while at the same time showing the world that we will fight terrorists without sacrificing our principles. We can also show by example how we expect our soldiers and nationals to be treated if they are swept into foreign courts or tribunals.

Our government is at its strongest when its executive and legislative branches act in concert. I provided earlier drafts of this legislation to the Attorney General and Secretary of Defense, but received no response. With the introduction of this bill, I again invite the Administration's cooperation and comment.

I ask unanimous consent that the text of the bill and the sectional analysis be printed in the RECORD.

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

S. 1941

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 ''Military Tribunal Authorization Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The al Qaeda terrorist organization and its leaders have committed unlawful attacks against the United States, including the August 7, 1998 bombings of the United States embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, the October 12, 2000 attack on the USS Cole and the September 11, 2001 attacks on the United States.

(2) The al Qaeda terrorist organization and its leaders have threatened renewed attacks on the United States and have threatened the use of weapons of mass destruction.

(3) In violation of the resolutions of the United Nations, the Taliban of Afghanistan provided a safe haven to the al Quaeda terrorist organization and its leaders and allowed the territory of that country to be used as a base from which to sponsor international terrorist operations.

(4) The United Nations Security Council, in Resolution 1267, declared in 1999 that the actions of the Taliban constitute a threat to international peace and security.

(5) The United Nations Security Council, in Resolutions 1368 and 1373, declared in September 2001 that the September 11 attacks against the United States constitute a threat to international peace and security.

(6) The United States is justified in exercising its right of self-defense pursuant to international law and the United Nations Charter.

(7) Congress authorized the President on September 18, 2001, to use all necessary and appropriate force against those nations, organizations, or persons that he determines to have planned, authorized, committed, or aided the September 11 terrorist attacks or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States, within the meaning of section 5(b) of the War Powers Resolution.

(8) The United States and its allies are engaged in armed conflict with al Qaeda and the Taliban.

(9) Military trials of the terrorists may be appropriate to protect the safety of the public and those involved in the investigation and prosecution, to facilitate the use of classified information as evidence without compromising intelligence or military efforts, and otherwise to protect national security interests.

(10) Military trials that provide basic procedural guarantees of fairness, consistent with the international law of armed conflict and the International Covenant on Civil and Political Rights (opened for signature December 16, 1966), would garner the support of the community of nations.

(11) Article I, section 8, of the Constitution provides that the Congress, not the President, has the power to ''constitute Tribunals inferior to the Supreme Court; ... define and punish ... Offenses against the Law of Nations; ... make Rules concerning Captures on Land and Water; ... make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.''.

(12) Congressional authorization is necessary for the establishment of extraordinary tribunals to adjudicate and punish offenses arising from the September 11, 2001 attacks against the United States and to provide a clear and unambiguous legal foundation for such trials.

SEC. 3. ESTABLISHMENT OF EXTRAORDINARY TRIBUNALS.

(a) AUTHORITY.—The President is hereby authorized to establish tribunals for the trial of individuals who—

(1) are not United States persons;

(2) are members of al Qaeda or members of other terrorist organizations knowingly cooperating with members of al Qaeda in planning, authorizing, committing, or aiding in the September 11, 2001 attacks against the United States, or, although not members of any such organization, knowingly aided and abetted members of al Qaeda in such terrorist activities against the United States;

(3) are apprehended in Afghanistan, fleeing from Afghanistan, or in or fleeing from any other place outside the United States where there is armed conflict involving the Armed Forces of the United States; and

(4) are not prisoners of war within the meaning of the Geneva Convention Relative to the Treatment of Prisoners of War, done on August 12, 1949, or any protocol relating thereto.

(b) JURISDICTION.—Tribunals established under subsection (a) may adjudicate violations of the law of war, international laws of armed conflict, and crimes against humanity targeted against United States persons.

(c) AUTHORITY TO ESTABLISH PROCEDURAL RULES.—The Secretary of Defense, in consultation with the Secretary of State and the Attorney General, shall prescribe and publish in the Federal Register, and report to the Committees on the Judiciary of the Senate and the House of Representatives, the rules of evidence and procedure that are to apply to tribunals established under subsection (a).

SEC. 4. PROCEDURAL REQUIREMENTS.

(a) IN GENERAL.—The rules prescribed for a tribunal under section 3(c) shall be designed to ensure a full and fair hearing of the charges against the accused. The rules shall require the following:

(1) That the tribunal be independent and impartial.

(2) That the accused be notified of the particulars of the offense charged or alleged without delay.

(3) That the proceedings be made simultaneously intelligible for participants not conversant in the English language by including translation or interpretation.

(4) That the evidence supporting each alleged offense be given to the accused.

(5) That the accused have the opportunity to be present at trial.

(6) That the accused have a right to be represented by counsel.

(7) That the accused have the opportunity—

(A) to respond to the evidence supporting each alleged offense;

(B) to obtain exculpatory evidence from the prosecution; and

(C) to present exculpatory evidence.

(8) That the accused have the opportunity to confront and cross-examine adverse witnesses and to offer witnesses.

(9) That the proceeding and disposition be expeditious.

(10) That the tribunal apply reasonable rules of evidence designed to ensure admission only of reliable information or material with probative value.

(11) That the accused be afforded all necessary means of defense before and after the trial.

(12) That conviction of an alleged offense be based only upon proof of individual responsibility for the offense.

(13) That conviction of an alleged offense not be based upon an act, offense, or omission that was not an offense under law when it was committed.

(14) That the penalty for an offense not be greater than it was when the offense was committed.

(15) That the accused—

(A) be presumed innocent until proven guilty, and

(B) not be found guilty except upon proof beyond a reasonable doubt.

(16) That the accused not be compelled to confess guilt or testify against himself.

(17) That, subject to subsections (c) and (d), the trial be open and public and include public availability of the transcripts of the trial and the pronouncement of judgment.

(18) That a convicted person be informed of remedies and appeals and the time limits for the exercise of the person's rights to the remedies and appeals under the rules.

(b) IMPOSITION OF THE DEATH PENALTY.—The requirements of the Uniform Code of Military Justice for the imposition of the death penalty shall apply in any case in which a tribunal established under section 3 is requested to adjudge the death penalty.

(c) PUBLIC PROCEEDINGS.—Any proceedings conducted by a tribunal established under section 3, and the proceedings on any appeal of an action of the tribunal, shall be accessible to the public consistent with any demonstrable necessity to secure the safety of observers, witnesses, tribunal judges, counsel, or other persons.

(d) CONFIDENTIALITY OF EVIDENCE.—Evidence available from an agency of the Federal Government that is offered in a trial by a tribunal established under section 3 may be kept secret from the public only when the head of the agency personally certifies in writing that disclosure will cause—

(1) identifiable harm to the prosecution of military objectives or interfere with the capture of members of al Qaeda anywhere;

(2) significant, identifiable harm to intelligence sources or methods; or

(3) substantial risk that such evidence could be used for planning future terrorist attacks.

(e) REVIEW.—

(1) PROCEDURES REQUIRED.—The Secretary of Defense shall provide for prompt review of convictions by tribunals established under section 3 to ensure that the procedural requirements of a full and fair hearing have

been met and that the evidence reasonably supports the convictions.

(2) UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—The procedures established under paragraph (1) shall, at a minimum, allow for review of the proceedings of the tribunals by the United States Court of Appeals for the Armed Forces established under the Uniform Code of Military Justice.

(3) SUPREME COURT.—The decisions of the United States Court of Appeals for the Armed Forces regarding proceedings of tribunals established under section 3 shall be subject to review by the Supreme Court by writ of certiorari.

SEC. 5. DETENTION.

(a) IN GENERAL.—The President may direct the Secretary of Defense to detain any person who is subject to a tribunal established under section 3 pursuant to rules and regulations that are promulgated by the Secretary and are consistent with the rules of international law.

(b) DURATION OF DETENTION.—

(1) LIMITATION.—A person may be detained under subsection (a) only while—

(A) there is in effect for the purposes of this section a certification by the President that the United States Armed Forces are engaged in a state of armed conflict with al Qaeda or Taliban forces in the region of Afghanistan or with al Qaeda forces elsewhere; or

(B) an investigation with a view toward prosecution, a prosecution, or a post-trial proceeding in the case of such person, pursuant to the provisions of this Act, is ongoing.

(2) CERTIFICATION AND RECERTIFICATION.—A certification of circumstances made under paragraph (1) shall be effective for 180 days. The President may make successive certifications of the circumstances.

(c) DISCLOSURE OF EVIDENCE.—Evidence that may establish that an accused is not a person described in subsection (a) shall be disclosed to the accused and his counsel, except that a summary of such evidence shall be provided to the accused and his counsel when the Attorney General personally certifies that disclosure of the evidence would cause identifiable harm to the prosecution of military objectives in Afghanistan, to the capture of other persons who are subject to this Act or reside outside the United States, or to the prevention of future terrorist acts directed against Americans. A summary of evidence shall be as complete as is possible in order to provide the accused with an evidentiary basis to seek release from detention.

(d) DETENTION REVIEW.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review any determination under this section that the requirements of this section for detaining an accused are satisfied.

(e) CONDITIONS OF DETENTION.—A person detained under this section shall be—

(1) detained at an appropriate location designated by the Secretary of Defense;

(2) treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria;

(3) afforded adequate food, drinking water, shelter, clothing, and medical treatment;

(4) sheltered under hygienic conditions and provided necessary means of personal hygiene; and

(5) allowed the free exercise of religion consistent with the requirements of such detention.

SEC. 6. SENSE OF CONGRESS.

It is the sense of Congress that the President should seek the cooperation of United States allies and other nations in conducting the investigations and prosecutions, including extraditions, of the persons who are responsible for the September 11, 2001 attacks on the United States, and use to the fullest extent possible multilateral institutions and mechanisms for carrying out such investigations and prosecutions.

SEC. 7. DEFINITIONS.

In this Act:

(1) SEPTEMBER 11, 2001 ATTACKS ON THE UNITED STATES.—The term ''September 11, 2001 attacks on the United States'' means the attacks on the Pentagon in the metropolitan area of Washington, District of Columbia, and the World Trade Center, New York, New York, on September 11, 2001, and includes the hijackings of American Airlines flights 77 and 11 and United Airlines flights 175 and 93 on that date.

(2) UNITED STATES PERSON.—The term ''United States person'' has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).

SEC. 8. TERMINATION OF AUTHORITY.

The authority under this Act shall terminate at the end of December 31, 2005.

MILITARY TRIBUNAL AUTHORIZATION ACT OF 2002—SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. The Military Tribunal Authorization Act of 2002.

Sec. 2. Findings. This section outlines twelve findings, including that the al Qaeda terrorist organization and its leaders committed unlawful acts against the United States on September 11, 2001 and on prior occasions; the U.S. is justified in exercising its right to self-defense under international law and the U.N. Charter; the Congress authorized the President to use all necessary force against those who committed, aided or abetted the September 11 attacks in order to prevent future attacks, within the meaning of the War Powers Resolution; military trials may be appropriate to protect public safety, to protect classified information used as evidence, and to protect national security interests; Article I, section 8 of the Constitution provides that the Congress, not the President, has the power to constitute tribunals and to define and punish offenses against the law of nations; and congressional authority is necessary to establish extraordinary tribunals to adjudicate offenses arising from the September 11 attacks.

Sec 3. Establishment of Extraordinary Tribunals. The President is authorized to establish tribunals to try non-U.S. persons who are al Qaeda member (and persons aiding and abetting al Qaeda in terrorist activities against the United States); are apprehended in Afghanistan, apprehended fleeing from Afghanistan, or apprehended in or fleeing from any other place where there is armed conflict involving the U.S. Armed Forces; and are not prisoners of war, as defined by the Geneva Conventions. Tribunals may adjudicate violations of the laws of war targeted against U.S. persons. The Secretary of Defense is charged with promulgating rules of evidence and procedure for the tribunals.

Sec. 4. Procedural Requirements. Rules for tribunals shall require (1) an independent and impartial proceeding; (2) that the accused be informed of the charges against him; (3) that proceedings be conducted with simultaneous translation for non-English speakers; (4) that the accused be shown the evidence against him; (5) that the accused be present at trial if he so chooses; (6) that the accused have the right to be represented by counsel; (7) that the accused have the right to respond to the evidence, and to obtain exculpatory evidence from the prosecution; (8) that the accused have the right to confront and cross-examine adverse witnesses, and to offer witnesses; (9) an expeditious trial and disposition; (10) that the rules of evidence admit only reliable information of probative value; (11) that the accused be afforded all necessary means of defense; (12) that convictions be based only upon proof of individual responsibility; (13) that a conviction may not be based on an act, offense, or omission that was not an offense under law when committed; (14) that the penalty for conviction not be greater than it was when the offense was committed; (15) that the accused is presumed innocent until proven guilty, and that proof of guilt be established beyond a reasonable doubt; (16) that the accused may not be compelled to confess guilt or testify against himself; (17) that trials to be open and public and include public access to transcripts and pronouncement of judgment, with the exceptions described below; and (18) that convicted persons be informed of available remedies and appeals. The bill follows the Uniform Code of Military Justice in requiring a unanimous vote for imposition of the death penalty.

Trial proceedings will generally be accessible to the public with limited exceptions for demonstrable public safety concerns. The bill allows for evidence to be kept secret from the public where disclosure may compromise national security or intelligence sources.

Convictions may be appealed to the U.S. Court of Appeals for the Armed Forces. Any decisions of that court regarding proceedings of tribunals are subject to review by the U.S. Supreme Court by writ of certiorari.

Sec. 5. Detention. This section authorizes detention of individuals who are subject to a tribunal under section 3. In order to detain an individual under the authority of this section, the President must certify that the U.S. is in armed conflict with al Qaeda or Taliban forces in Afghanistan or elsewhere, or that an investigation, prosecution or post-trial proceeding against the detainee is ongoing. This certification must be made every 6 months.

Evidence that may establish that an accused is not subject to detention under this section shall be disclosed to the accused, except that a summary of such evidence will be provided if the Attorney General certifies that disclosure would cause certain identifiable harms. Detentions under this section may be appealed to the U.S. Court of Appeals for the D.C. Circuit.

This section also defines the conditions of detention, requiring that detainees be treated humanely. Humane treatment includes adequate food, water, shelter, clothing and medical treatment, hygienic conditions, the necessary means of personal hygiene, and the free exercise of religion. Detention determinations and the conditions of detention are subject to review by the Court of Appeals for the D.C. Circuit.

Sec. 6. Sense of the Congress. This section calls for the President to seek the cooperation of U.S. allies and other nations in the investigations and prosecutions of those responsible for the September 11 attacks. It also calls for the President to use multilateral institutions to the fullest extent possible in carrying out such investigations and prosecutions.

Sec. 7. Definitions. This section defines the terms, ''September 11, 2001 attacks on the U.S.,'' and ''U.S. person.'' The latter takes its meaning from the definition of the term ''U.S. person'' in the Foreign Intelligence Surveillance Act of 1978, and includes a citizen of the United States or an alien lawfully admitted for permanent residence.

Sec. 8. Termination of Authority. Authority under the act terminates on December 31, 2005.

By Mr. CAMPBELL:

S. 1944. A bill to revise the boundary of the Black Canyon of the Gunnison

National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, today I introduce the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2002. This bill improves upon my earlier efforts designating the initial park and conservation area.

The Black Canyon of the Gunnison Gorge is a national treasure to be enjoyed by all. The park's combination of geological wonders and diverse wildlife make it one of the most unique natural areas in North America.

The first person to survey the canyon, Abraham Lincoln Fellows, noted in 1901, ''our surroundings were of the wildest possible description. The roar of the water . . . was constantly in our ears, and the walls of the canyon, towering half mile in height about us, were seemingly vertical.'' Similarly, today, visitors can enjoy hiking the deep gorge to the Gunnison River raging below, or look overhead to marvel at eagles and peregrine falcons soaring in the sky.

This bill modifies the legislative boundary of the Gunnison Gorge National Conservation Area allowing even greater access to the park's many recreational opportunities including boating, fishing, and hiking.

This important legislation would expand the National Park by 2,725 acres, for a total of 33,025 acres. The Conservation area will be increased by 5,700 acres, for a total of 63,425 acres. In total this bill adds 7,296 acres to provide habitat for several listed, threatened, endangered and BLM sensitive species including, the Bald Eagle, the River Otter, Delta Lomation, Clay-Loving Buckwheat.

This legislation helps preserve a unique national resource and a source of national pride.

I urge quick passage of this important bill. I ask 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. 1944

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 ''Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2002''.

SEC. 2. BLACK CANYON OF THE GUNNISON NATIONAL PARK BOUNDARY REVISION.

(a) ESTABLISHMENT.—Section 4(a) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff–2(a)) is amended—

(1) by striking ''There is hereby established'' and inserting the following:

''(1) IN GENERAL.—There is established''; and

(2) by adding at the end the following:

''(2) BOUNDARY REVISION.—The boundary of the Park is revised to include the addition of not more than 2,725 acres, as depicted on the map entitled 'Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications' and dated January 22, 2002.''.

(b) ADMINISTRATION.—Section 4(b) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff–2(b)) is amended—

(1) by striking ''Upon'' and inserting the following:

''(1) LAND TRANSFER.—

''(A) IN GENERAL.—On''; and

(2) by striking ''The Secretary shall'' and inserting the following:

''(B) ADDITIONAL LAND.—On the date of enactment of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Boundary Revision Act of 2002, the Secretary shall transfer the land under the jurisdiction of the Bureau of Land Management identified as 'Tract C' on the map described in subsection (a)(2) to the administrative jurisdiction of the National Park Service for inclusion in the Park.

''(2) AUTHORITY.—The Secretary shall''.

SEC. 3. GRAZING PRIVILEGES AT BLACK CANYON OF THE GUNNISON NATIONAL PARK.

Section 4(e) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff–2(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(B) by inserting after subparagraph (A) the following:

''(B) TRANSFER.—If land authorized for grazing under subparagraph (A) is exchanged for private land under this Act, the Secretary shall transfer any grazing privileges to the private land acquired in the exchange in accordance with this section.''; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (D);

(C) by inserting after subparagraph (A) the following:

''(B) with respect to the permit or lease issued to LeValley Ranch Ltd., a partnership, for the lifetime of the 2 limited partners as of October 21, 1999;

''(C) with respect to the permit or lease issued to Sanburg Herefords, L.L.P., a partnership, for the lifetime of the 2 general partners as of October 21, 1999; and''; and

(D) in subparagraph (D) (as redesignated by subparagraph (B))—

(i) by striking ''partnership, corporation, or'' in each place it appears and inserting ''corporation or''; and

(ii) by striking ''subparagraph (A)'' and inserting ''subparagraphs (A), (B), or (C)''.

SEC. 4. ACQUISITION OF LAND.

(a) AUTHORITY TO ACQUIRE LAND.—Section 5(a)(1) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff–3(a)(1)) is amended by inserting ''or the map described in section 4(a)(2)'' after ''the Map''.

(b) METHOD OF ACQUISITION.—

(1) IN GENERAL.—Land or interest in land acquired under the amendments made by this Act shall be made in accordance with section 5(a)(2)(A) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff–3(a)(2)(A)).

(2) CONSENT.—No land or interest in land may be acquired without the consent of the landowner.

SEC. 5. GUNNISON GORGE NATIONAL CONSERVATION AREA BOUNDARY REVISION.

Section 7(a) of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 (16 U.S.C. 410fff–5(a)) is amended—

(1) by striking ''(a) IN GENERAL.—There is established'' and inserting the following:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established''; and

(2) by adding at the end the following:

''(2) BOUNDARY REVISION.—The boundary of the Conservation Area is revised to include the addition of not more than 5,700 acres, as depicted on the map entitled 'Black Canyon of the Gunnison National Park and Gunnison Gorge NCA Boundary Modifications' and dated January 22, 2002.''.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 208—COMMENDING STUDENTS WHO PARTICIPATED IN THE UNITED STATES SENATE YOUTH PROGRAM BETWEEN 1962 AND 2002

Ms. COLLINS (for herself, Mr. BREAUX, Mr. LEVIN, Mr. LUGAR, Mr. DOMENICI, and Mrs. HUTCHISON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 208

Whereas the students who have participated in the United States Senate Youth Program (referred to in this resolution as the ''Senate Youth Program'') over the past 40 years were chosen for their exceptional merit and interest in the political process;

Whereas the students demonstrated outstanding leadership abilities and a strong commitment to community service and have ranked academically in the top 1 percent of their States;

Whereas the Senate Youth Program alumni have continued to achieve unparalleled success in their education and careers and have demonstrated a strong commitment to public service on the local, State, national, and global levels;

Whereas the Senate Youth Program alumni have reflected excellent qualities of citizenship and have contributed to the Nation's constitutional democracy, be it in either professional or volunteer capacities, and have made an indelible impression on their communities;

Whereas the chief State school officers, on behalf of the State Departments of Education, have selected outstanding participants for the Senate Youth Program;

Whereas the Department of Defense, Department of State, and other Federal Departments, as well as Congress, have offered support and provided top level speakers who have inspired and educated the students of the Senate Youth Program; and

Whereas the directors of the William Randolph Hearst Foundation have continually made the Senate Youth Program available for outstanding young students and exposed them to the varied aspects of public service: Now, therefore, be it

Resolved, That the Senate congratulates, honors, and pays tribute to the more than 4,000 exemplary students who have been selected, on their merit, to participate in the United States Senate Youth Program between 1962 and 2002.

Ms. COLLINS. Mr. President, I rise today to introduce a resolution to commemorate the 40th anniversary of the

William Randolph Hearst U.S. Senate Youth Program. I am pleased to be joined by Senator BREAUX, who serves with me as a co-chair of the 40th anniversary program, as well as Senators HUTCHISON, DOMENICI, LUGAR, and LEVIN, who all serve on the advisory committee. As the first graduate of the program to become a U.S. Senator, I can honestly say that the week I spent in Washington in 1971, as one of two delegates from Maine, profoundly influenced my life and career.

Even though my family has a long and proud tradition of public service, my great grandfather, my grandfather and my father all served in the State legislature, and both of my parents served as mayor of Caribou, ME, it was the week I spent in Washington with the Senate Youth Program that caused me to seriously consider a career in the public sector.

For the past 40 years, the Senate Youth Program has selected two of the brightest and most active students in each of the 50 States, the District of Columbia, and the Department of Defense schools abroad to spend a week learning about our Nation's government first-hand. Over the years, over 4,000 such students have participated in the program and gone on to serve our Nation in various capacities, having seen first-hand what it means to serve in what has been called the world's greatest deliberative body.

The continued generosity of the William Randolph Hearst Foundation enables students to come to the District of Columbia and see a side of government that few Americans see in their lifetime. Each year the delegates meet with top members of the legislative, executive, and judicial branches.

I remember how fascinated I was as a delegate to listen to Senators BYRD and THURMOND speak to us about the history of the Senate and the issues of the day.

But the highlight of my week was the time I spent talking with my home State Senator, Margaret Chase Smith. I went to Senator Smith's office hoping to shake her hand; instead, she took me into her private office and spent 2 hours talking with me about the importance of public service and the difference one person can make. When I left her office, I remember feeling so proud that she was my Senator and that I could do anything I set my mind to.

So, today it is my pleasure to sponsor this resolution paying tribute to the more than 4,000 delegates who have participated in the Senate Youth Program over the past 40 years, some of whom we may see here in the Congress, at the Supreme Court, or even in the White House in years to come. I urge my colleagues to join me in supporting this measure.

SENATE RESOLUTION 209—TO EXPRESS THE SENSE OF THE SENATE REGARDING PRENATAL CARE FOR WOMEN AND CHILDREN

Mr. SMITH of New Hampshire (for himself, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. SANTORUM, Mr. BROWNBACK, Mr. DEWINE, and Mr. ENSIGN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 209

Whereas unborn children benefit from quality prenatal health care;

Whereas the levels of infant mortality, premature delivery, and low birth weight are exceedingly high in the United States as compared with other developed countries;

Whereas low birth weight and premature delivery are causally associated with developmental disabilities among children;

Whereas proper prenatal care can prevent avoidable birth defects;

Whereas new medical advances, together with early diagnosis, can treat children with a wide range of disorders, including spina bifida, HIV/AIDS, fetal distress, and anemia;

Whereas fetal surgery is now able to correct many life-threatening congenital disorders;

Whereas pregnant women benefit from quality health care, including physician care, hospital care, and prescription medications;

Whereas prenatal care can prevent medical and surgical complications that a mother may encounter during pregnancy and delivery;

Whereas prenatal care can identify and treat a mother's preexisting medical conditions, which may be impacted by pregnancy;

Whereas an estimated 10,900,000 women of child-bearing age (18 through 44) do not have health insurance;

Whereas the State Children's Health Insurance Program (SCHIP), created under title XXI of the Social Security Act, expands health coverage to uninsured children whose families earn too much for medicaid but too little to afford private coverage; and

Whereas, on January 31, 2002, the Secretary of Health and Human Services, Tommy Thompson, proposed a regulation to allow States to include coverage for children from conception to age 19, which would allow low-income pregnant mothers to receive prenatal and delivery care: Now, therefore, be it

Resolved, That the Senate—

(1) commends Secretary of Health and Human Services, Tommy Thompson, for moving to immediately make SCHIP resources available to States to care for unborn children and pregnant mothers; and

(2) commends Secretary Thompson for recognizing pregnant mothers and unborn children as deserving of concern about their health and well-being.

SENATE CONCURRENT RESOLUTION 97—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. DASCHLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 97

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, February 14, 2002, or Friday, February 15, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, February 25, 2002, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, February 14, 2002, it stand adjourned until 2:00 p.m. on Tuesday, February 26, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2858. Mr. ALLARD (for himself, Mr. SMITH, of New Hampshire, Mr. GRAMM, Mr. ALLEN, Mr. ROBERTS, Mr. COCHRAN, Ms. COLLINS, and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

SA 2859. Mr. HARKIN (for himself and Mr. LUGAR) proposed an amendment 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.

SA 2860. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table.

SA 2861. Mr. SMITH, of New Hampshire proposed an amendment to amendment SA 2858 submitted by Mr. ALLARD and intended to be proposed to the amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra.

SA 2862. Mr. MCCAIN submitted an amendment intended to be proposed to amendment

SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2863. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2864. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2865. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2866. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2867. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2868. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2869. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2870. Mr. WYDEN (for himself, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) supra; which was ordered to lie on the table.

SA 2871. Mr. SCHUMER proposed an amendment to the bill S. 565, supra.

SA 2872. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 565, supra; which was ordered to lie on the table.

SA 2873. Mr. SCHUMER proposed an amendment to the bill S. 565, supra.

SA 2874. Mr. DODD (for Ms. CANTWELL (for himself, Mrs. MURRAY, and Mr. DODD)) proposed an amendment to the bill S. 565, supra.

SA 2875. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 565, supra; which was ordered to lie on the table.

SA 2876. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 565, supra; which was ordered to lie on the table.

SA 2877. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 565, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2858. Mr. ALLARD (for himself, Mr. SMITH of New Hampshire, Mr. GRAMM, Mr. ALLEN, Mr. ROBERTS, Mr. COCHRAN, Ms. COLLINS, and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD of the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 68, between lines 2 and 3, insert the following:

TITLE IV—UNIFORMED SERVICES ELECTION REFORM

SEC. 401. STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) by striking ''Each State'' and inserting ''(a) IN GENERAL.—Each State''; and

(2) by adding at the end the following:

''(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

''(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—

''(A) solely on the grounds that the ballot lacked—

''(i) a notarized witness signature;

''(ii) an address (other than on a Federal write-in absentee ballot, commonly known as 'SF186');

''(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or

''(iv) an overseas postmark; or

''(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.

''(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 402. MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.

(a) IN GENERAL.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 401(a) of this Act and section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(5) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and

''(6) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—

''(A) has registered to vote under this section; and

''(B) is eligible to vote in that election under State law.''.

(b) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

''(7) The term 'recently separated uniformed services voter' means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—

''(A) presents to the election official Department of Defense form 214 evidencing their former status as such a voter, or any other official proof of such status;

''(B) is no longer such a voter; and

''(C) is otherwise qualified to vote in that election.'';

(3) by redesignating paragraph (10) (as redesignated by paragraph (1)) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

''(10) The term 'uniformed services voter' means—

''(A) a member of a uniformed service in active service;

''(B) a member of the merchant marine; and

''(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 403. PROHIBITION OF REFUSAL OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

(a) IN GENERAL.—Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1279), is amended by adding at the end the following new subsection:

''(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 404. DISTRIBUTION OF FEDERAL MILITARY VOTER LAWS TO THE STATES.

Not later than the date that is 60 days after the date of enactment of this Act, the Secretary of Defense (in this section referred to as the ''Secretary''), as part of any voting assistance program conducted by the Secretary, shall distribute to each State (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) enough copies of the Federal military voting laws (as identified by the Secretary) so that the State is able to distribute a copy of such laws to each jurisdiction of the State.

SA 2859. Mr. HARKIN (for himself and Mr. LUGAR) proposed an amendment 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; as follows:

On page 12, line 22, strike ''mohair,''.

On page 34, after line 19, add the following:

SEC. 1___. PILOT PROGRAM FOR FARM 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. PILOT PROGRAM FOR FARM COUNTER-CYCLICAL SAVINGS ACCOUNTS.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED GROSS REVENUE.—The term 'adjusted gross revenue' means the adjusted gross income for all agricultural enterprises of a producer in a year, excluding revenue earned from nonagricultural sources, as determined by the Secretary—

''(A) by taking into account gross receipts from the sale of crops and livestock on all agricultural enterprises of the producer, including insurance indemnities resulting from losses in the agricultural enterprises;

''(B) by including all farm payments paid by the Secretary for all agricultural enterprises of the producer, including any marketing loan gains described in section 1001(3)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(3)(A));

''(C) by deducting the cost or basis of livestock or other items purchased for resale, such as feeder livestock, on all agricultural enterprises of the producer; and

''(D) as represented on—

''(i) a schedule F of the Federal income tax returns of the producer; or

''(ii) a comparable tax form 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 all agricultural commodities (including livestock but excluding tobacco) on a farm or ranch.

''(3) AVERAGE ADJUSTED GROSS REVENUE.—The term 'average adjusted gross revenue' 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, that—

''(A) shares in the risk of producing, or provides a material contribution in producing, an agricultural commodity for the applicable year;

''(B) has a substantial beneficial interest in the agricultural enterprise in which the agricultural commodity is produced;

''(C)(i) during each of the preceding 5 taxable years, has filed—

''(I) a schedule F of the Federal income tax returns; or

''(II) a comparable tax form related to the agricultural enterprises of the individual or entity, as approved by the Secretary; or

''(ii) is 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; and

''(D)(i) has earned at least $50,000 in average adjusted gross revenue over the preceding 5 taxable years;

''(ii) is a limited resource farmer or rancher, as determined by the Secretary; or

''(iii) in the case of a beginning farmer or rancher or other producer that does not have average adjusted gross revenue for 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) ESTABLISHMENT.—For each of fiscal years 2003 through 2005, the Secretary shall establish a pilot program in 3 States (as determined by the Secretary) under which a producer may establish a farm 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) CONTENT OF ACCOUNT.—A farm counter-cyclical savings account shall consist of—

''(1) contributions of the producer; and

''(2) matching contributions of the Secretary.

''(d) PRODUCER CONTRIBUTIONS.—A producer may deposit such amounts in the account of the producer as the producer considers appropriate.

''(e) MATCHING CONTRIBUTIONS.—

''(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.

''(2) AMOUNT.—Subject to paragraph (3), the amount of a matching contribution that the Secretary shall provide under paragraph (1) shall be equal to 2 percent of the average adjusted gross revenue of the producer.

''(3) 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 for any applicable fiscal year.

''(4) 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 $4,000,000 for each of fiscal years 2003 through 2005.

''(5) 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.—

''(1) IN GENERAL.—Subject to paragraph (2), in any year, a producer may withdraw funds from the account in an amount that is equal to—

''(A) 90 percent of average adjusted gross revenue of the producer for the previous 5 years; minus

''(B) the adjusted gross revenue of the producer in that year.

''(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.

''(i) ADMINISTRATION.—The Secretary shall administer this section through the Farm Service Agency and local, county, and area offices of the Department of Agriculture.''.

On page 37, strike lines 1 through 12 and insert the following:

''(12) in the case of nongraded wool (including unshorn pelts), $.40 per pound;

''(13) in the case of honey, $.60 per pound;

''(14) in the case of dry peas, $6.78 per hundredweight;

''(15) in the case of lentils, $12.79 per hundredweight;

''(16) in the case of large chickpeas, $17.44 per hundredweight; and

''(17) in the case of small chickpeas, $8.10 per hundredweight.

On page 40, line 8, strike the closing quotation marks and the following period.

On page 40, after line 8, insert the following:

''(3) 2001 CROP.—Notwithstanding paragraphs (1) and (2), effective for the 2001 crop only, if a producer eligible for a payment under this section loses beneficial interest in the covered commodity, the producer shall be eligible for the payment determined as of the date the producer lost beneficial interest in the covered commodity, as determined by the Secretary.''.

SEC. 1___. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

(a) IN GENERAL.—Subtitle C of title I 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. 138. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

''(a) IN GENERAL.—For each crop 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 make a payment to the producers on the farm under this section if the producers on the farm enter into an agreement with the Secretary to forgo any other harvesting of the wheat, grain sorghum, barley, or oats on the acreage.

''(b) PAYMENT AMOUNT.—The amount of a payment made to the producers on a farm under this section shall be equal to the amount obtained by multiplying—

''(1) the loan deficiency payment rate determined under section 135(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

''(2) the payment quantity 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 harvesting of wheat, grain sorghum, barley, or oats; and

''(B) the payment yield for that contract commodity on the farm.

''(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

''(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 135.

''(2) AVAILABILITY.—The Secretary shall establish an availability period for the payment authorized by this section that is consistent with the availability period for wheat, grain sorghum, barley, and oats established by the Secretary for marketing assistance loans authorized by this subtitle.

''(d) PROHIBITION ON CROP INSURANCE OR NONINSURED CROP ASSISTANCE.—The producers on a farm shall not be eligible for insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 with respect to a crop of wheat, grain sorghum, barley, or oats planted on acreage that the producers on the farm elect, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop.''.

On page 53, strike lines 5 through 8 and insert the following:

(b) DEFINITION OF FLUID MILK PROCESSOR.—Section 1999C(4) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)) is amended by striking ''500,000 pounds of fluid milk products in consumer-type packages per month'' and inserting ''3,000,000 pounds of fluid milk products in consumer-type packages per month (excluding products delivered directly to the place of residence of a consumer)''.

On page 59, line 2, strike ''Promotion'' and insert ''Production''.

On page 70, strike lines 4 through 9 and insert the following:

(h) SUBSTITUTABILITY OF SUGAR.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) 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 sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar under those programs.''.

(i) CROPS.—Subsection (j) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) (as redesignated by subsection (h)(1)) is amended—

(1) by striking ''(other than subsection (f))''; and

(2) by striking ''2002'' and inserting ''2006''.

On page 70, line 10, strike ''(i)'' and insert ''(j)''.

On page 75, line 16, strike ''7251'' and insert ''7272''.

On page 81, line 22, strike ''7251'' and insert ''7272''.

On page 86, strike lines 8 through 11 and insert the following:

''(III) LIMITATIONS.—The allotment for a new processor under this clause shall not exceed—

''(aa) in the case of the first fiscal year of operation of a new processor, 50,000 short tons (raw value); and

''(bb) in the case of each subsequent fiscal year of operation of the new processor, a quantity established by the Secretary in accordance with this clause and the criteria described in clause (ii) or (iii), as applicable.

''(IV) NEW ENTRANT STATES.—

''(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 shall provide the new entrant mainland State with an allotment.

''(bb) EFFECT ON OTHER ALLOTMENTS.—The allotment to any new entrant mainland State shall be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 359c(e)(3).

''(V) ADVERSE EFFECTS.—Before providing an initial processor allocation or State allotment to a new entrant processor or a new entrant State under this clause, the Secretary shall take into consideration any adverse effects that the provision of the allocation or allotment may have on existing cane processors and producers in mainland States.

''(VI) ABILITY TO MARKET.—Consistent with section 359c and this section, any processor allocation or State allotment made to a new entrant processor or to a new entrant State under this clause shall be provided only after the applicant processor, or the applicable processors in the State, have demonstrated the ability to process, produce, and market (including the transfer or delivery of the raw cane sugar to a refinery for further processing or marketing) raw cane sugar for the crop year for which the allotment is applicable.

''(VII) PROHIBITION.—Not more than 1 processor allocation provided under this clause may be applicable to any individual sugar processing facility.

On page 86, line 20, strike ''or successor in interest,'' and insert ''successor in interest, or any remaining processor of an affiliated entity,''.

On page 93, strike lines 3 through 7 and insert the following:

(2) Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (as amended by subsection (a)) is amended by inserting before section 359b (7 U.S.C. 1359bb) the following:

''SEC. 359a. DEFINITIONS.

On page 94, strike lines 6 through 8 and insert the following:

(4) Section 359j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359jj) is amended—

(A) in subsection (b), by striking ''sections 359a through 359i'' and inserting ''this part''; and

(B) by striking subsection (c).

On page 96, line 22, strike ''If,'' and insert ''Except as provided in subparagraph (C), if,''.

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 is declared a disaster area during 1 or more of the 4 crop years described in subparagraph (A), for the 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—

''(i) the State 4-year average yield of peanuts produced in the State; or

''(ii) the average yield for the historical peanut producer determined by the Secretary under subparagraph (A).

On page 97, lines 11 and 12, strike ''Except as provided in paragraph (3), the'' and insert ''The''.

Beginning on page 97, strike line 24 and all that follows through page 98, line 12.

Beginning on page 99, strike line 3 and all that follows through page 100, line 2, and insert the following:

''(b) ASSIGNMENT OF YIELD AND ACRES TO FARMS.—

''(1) ASSIGNMENT BY HISTORICAL PEANUT PRODUCERS.—For the first crop year that begins after the date of enactment of this section, the Secretary shall provide each historical peanut producer in a State that produced a contract commodity, or another agricultural commodity for which a production adjustment program is carried out under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.), or was prevented from planting a contract commodity, or another such agricultural commodity, during the 2001 crop year 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 in the State.

''(2) ASSIGNMENT TO CROPLAND.—In the case of a historical peanut producer on a farm that did not produce a contract commodity, or another such agricultural commodity, and was not prevented from planting a contract commodity or another such agricultural commodity during the 2001 crop year, the average peanut yield and average acreage determined under subsection (a) shall be assigned to the cropland on the farm.

''(3) 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.

''(4) 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.

''(c) ELECTION.—In the case of the first crop year that begins after the date of enactment of this subsection, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b)(1) not later than 180 days after the date of enactment of this section.

Beginning on page 103, line 24, through page 104, line 1, strike ''12-month marketing year'' and insert ''marketing season''.

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 122, between lines 10 and 11, insert the following:

SEC. 1___. MARKETING ORDERS FOR CANEBERRIES.

(a) IN GENERAL.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in subsection (2)(A), by inserting ''caneberries (including raspberries, blackberries, and loganberries),'' after ''other than pears, olives, grapefruit, cherries,''; and

(2) in subsection (6)(I), by striking ''tomatoes,,'' and inserting ''tomatoes, caneberries (including raspberries, blackberries, and loganberries),''.

(b) CONFORMING AMENDMENT.—Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–l(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking ''or apples'' and inserting ''apples, or caneberries (including raspberries, blackberries, and loganberries)''.

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''.

SEC. 1___. FARM RECONSTITUTIONS.

(a) IN GENERAL.—Section 316(a)(1)(A)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, for the 2002 crop only, the Secretary shall allow special farm reconstitutions, in lieu of lease and transfer of allotments and quotas, under this section, in accordance with such conditions as are established by the Secretary.''.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study on the effects on the limitation on producers to move quota to a farm other than the farm to which the quota was initially assigned under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.).

(2) REPORT.—Not later than 90 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.

On page 123, line 2, strike the closing quotation marks and the following period.

On page 123, between lines 2 and 3, insert the following:

''(f) EXPENDITURE LIMITATION.—If the Secretary makes a determination under subsection (e) that expenditures will exceed allowable levels for any applicable reporting period and notifies Congress of the Secretary's intent to make adjustments to ensure that expenditures do not exceed allowable levels, no expenditures under any program proposed to be adjusted by the Secretary may be made after the date that is 18 months after the date of the determination, unless a joint resolution disapproving the adjustments is enacted by both Houses of Congress within 60 days of the date of the notification.

''(g) ANNUAL REPORT ON DOMESTIC SUPPORT.—Not later than April 30 of each year, 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—

''(1) estimated levels of domestic support for agricultural commodities during the current marketing year and the following marketing year;

''(2) the manner in which the Secretary intends to notify the World Trade Organization of the estimated levels; and

''(3) proposed changes to domestic support programs subject to reduction commitments made in the context of WTO trade negotiations.''.

On page 123, line 15, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 125, between lines 4 and 5, insert the following:

(b) SENSE OF THE SENATE CONCERNING PURCHASES OF CRANBERRIES.—

(1) FINDINGS.—Congress finds that—

(A) the price per hundred pounds of cranberries has dropped from approximately $70 to approximately $10;

(B) the cost of producing cranberries is between $30 and $35 per hundred pounds, which is much more than the price per hundred pounds of cranberries for each of the past 2 years;

(C) there is a serious economic crisis among cranberry growers in the United States, especially in the States of Wisconsin, Massachusetts, and New Jersey;

(D) the Cranberry Marketing Committee has issued 2 marketing orders, but the marketing orders have not led to higher prices;

(E) although Congress directed the Secretary of Agriculture to use $30,000,000 to purchase cranberries in fiscal year 2001, the price of cranberries has not risen significantly; and

(F) the cranberry industry faces a surplus of cranberries and continuing low prices for cranberries.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Agriculture should attempt to alleviate the economic crisis among cranberry growers by continuing to expend for each fiscal year for the purchase of cranberries the same amount as the Secretary expended for fiscal year 2001.

In Amendment No. 2826 (END02.085), on page 28, line 22, strike ''404'' and insert ''741''.

On page 128, between lines 8 and 9, insert the following:

SEC. 1___. REPORTS ON EQUITABLE RELIEF AND MISACTION-MISINFORMATION REQUESTS.

Section 195 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 946) is amended to read as follows:

''SEC. 195. REPORTS ON EQUITABLE RELIEF AND MISACTION-MISINFORMATION REQUESTS.

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2002 and not later than December 1 of fiscal year 2003 and each subsequent fiscal year, 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—

''(1) the number of requests received by the Secretary during the preceding fiscal year for equitable relief under programs carried out by the Farm Service Agency and the Natural Resources Conservation Service, including a description (by program) of—

''(A) the number of requests received;

''(B) the number of requests approved by the Secretary; and

''(C) the basis for the approval or denial of the requests; and

''(2) the number of requests received by the Secretary during the preceding fiscal year for relief described in section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) with respect to programs carried out under this title, including a description (by program) of—

''(A) the number of requests received;

''(B) the number of requests approved by the Secretary; and

''(C) the basis for the approval or denial of the requests.

''(b) APPEALS.—The Secretary, acting through the Director of the National Appeals Division, shall include in each report submitted under subsection (a) a description of actions taken by the Division taken during the preceding fiscal year with respect to requests for relief described in subsection (a).''.

SEC. 1___. ESTIMATES OF NET FARM INCOME.

Title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.) is amended by adding at the end the following:

''SEC. 197. ESTIMATES OF NET FARM INCOME.

''In each issuance of projections of net farm income, the Secretary shall include (as determined by the Secretary)—

''(1) an estimate of the net farm income earned by commercial producers in the United States; and

''(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.''.

SEC. 1___. COMMODITY CREDIT CORPORATION INVENTORY.

Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended in the last sentence by inserting before the period at the end the following: ''(including, at the option of the Corporation, the use of private sector entities)''.

SEC. 1___. AGRICULTURAL PRODUCERS SUPPLEMENTAL PAYMENTS AND ASSISTANCE.

(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 (115 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 prior to October 1, 2001.

(b) LIMITATION.—The amount of payments or assistance provided 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 under Public Law 107–25.

Subtitle E—Payment Limitation Commission

SEC. 1___1. 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.—

(A) IN GENERAL.—The Commission shall be composed of 11 members appointed as follows:

(i) 3 members shall be appointed by the President, of whom 2 shall be from land grant colleges or universities and have expertise in agricultural economics.

(ii) 1 member shall be appointed by the Majority Leader of the Senate.

(iii) 1 member shall be appointed by the Minority Leader of the Senate.

(iv) 1 member shall be appointed by the Speaker of the House of Representatives.

(v) 1 member shall be appointed by the Minority Leader of the House of Representatives.

(vi) 1 member shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(vii) 1 member shall be appointed by the ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(viii) 1 member shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives.

(ix) 1 member shall be appointed by the ranking minority member of the Committee on Agriculture of the House of Representatives.

(B) DIVERSITY OF VIEWS.—The appointing authorities under subparagraph (A) shall seek to ensure that the membership of the Commission has a diversity of experiences and expertise on the issues to be studied by the Commission, such as agricultural production, agricultural lending, farmland appraisal, agricultural accounting and finance, and other relevant areas.

(2) FEDERAL GOVERNMENT EMPLOYMENT.—The membership of the Commission may include 1 or more employees of the Department of Agriculture or other Federal agencies.

(3) DATE OF APPOINTMENTS.—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 the life of the Commission.

(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. 1___2. 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 has on—

(A) the agricultural producers that participate in the programs;

(B) overproduction of agricultural commodities;

(C) the prices that agricultural producers receive for agricultural commodities in the marketplace; and

(D) land prices and rental rates;

(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 Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the review conducted, and any recommendations developed, under this section.

SEC. 1___3. 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 to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

SEC. 1___4. 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 daily equivalent of the annual 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 engaged in the performance of 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 an 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. 1___5. 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. 1___6. FUNDING.

Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $100,000 to carry out this subtitle.

SEC. 1___7. 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 1___2(c).

On page 129, line 14, strike ''an producer'' and insert ''a producer''.

Beginning on page 130, strike line 22 and all that follows through page 131, line 2.

On page 131, line 3, strike ''(9)'' and insert ''(8)''.

On page 131, line 7, strike ''(10)'' and insert ''(9)''.

On page 131, line 20, strike ''(11)'' and insert ''(10)''.

On page 132, line 10, strike ''(12)'' and insert ''(11)''.

On page 132, line 13, strike ''(13)'' and insert ''(12)''.

On page 133, line 4, strike ''(14)'' and insert ''(13)''.

On page 133, line 12, strike ''(15)'' and insert ''(14)''.

On page 133, line 20, strike ''(16)'' and insert ''(15)''.

On page 133, line 23, strike ''(17)'' and insert ''(16)''.

On page 134, line 3, strike ''(18)'' and insert ''(17)''.

On page 134, line 7, strike ''(19)'' and insert ''(18)''.

On page 134, line 11, strike ''(20)'' and insert ''(19)''.

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 140, line 24, insert ''or update existing technologies and practices'' before the period.

On page 141, line 1, strike ''STATE AND LOCAL'' and insert ''STATE, TRIBAL, AND LOCAL''.

On page 141, lines 7 and 8, strike ''State and'' and insert ''State or Indian tribe and''.

On page 141, line 11, insert '', Indian tribe,'' after ''State''.

On page 141, strike lines 13 through 18 and insert the following:

''(i)(I) 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

''(II) approved by the Secretary; and

''(ii) in the case of land under the jurisdiction of an Indian tribe—

''(I) determined by the Indian tribe, after consultation with the Secretary; and

''(II) approved by the Secretary.

On page 142, line 5, strike ''at least'' anbd include ''in addition to (c)(1)(c)''.

On page 148, line 11, insert ''management of'' before ''conservation''.

On page 151, line 9, insert ''for the entire agricultural operation'' before the semicolon.

On page 151, line 11, insert ''management of'' before ''conservation''.

On page 152, line 1, insert ''AND REQUIREMENTS'' after ''PRACTICES''.

On page 152, line 2, insert ''and requirements'' after ''practices''.

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)(i) 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

''(ii) approved by the Secretary; and

''(B) in the case of land under the jurisdiction of an Indian tribe—

''(i) determined by the Indian tribe, after consultation with the Secretary; and

''(ii) 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 176, strike lines 8 through 14 and insert the following:

''(h) CONSERVATION SECURITY STATE PROGRAM.—

''(1) IN GENERAL.—Effective October 1, 2004, the Secretary, in cooperation with appropriate State agencies, may permit 1 State to jointly implement a conservation security program with the Secretary.

On page 177, line 13, insert '', education and outreach, and monitoring and evaluation'' after ''assistance''.

On page 177, line 21, insert after ''subtitle to'' the following: ''enter into agreements with State and local agencies , Indian tribes, and nongovernmental and to''.

On page 178, line 6, insert ''or tribal'' after ''State''.

On page 178, line 9, insert ''or tribal'' after ''State''.

On page 178, line 11, strike ''or''.

On page 178, between lines 13 and 14, insert the following:

''(iv) other Federal, State, tribal, or local laws; or

On page 178, line 18, strike ''or multi-State'' and insert '', multistate, or tribal''.

On page 181, strike lines 9 through 11 and insert the following:

''(4) PURPOSES OF SPECIAL PROJECTS.—The purposes of special projects carried out under this section shall be to encourage—

Beginning on page 186, strike line 22 and all that follows through page 190, line 24, and insert the following:

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Under any conservation program administered by the Secretary, subject to paragraph (2), technical assistance provided by persons certified under paragraph (3) (including farmers and ranchers) may include—

''(A) conservation planning;

''(B) design, installation, and certification of conservation practices;

''(C) conservation training for producers; and

''(D) such other conservation activities as the Secretary determines to be appropriate.

''(2) 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.—Subject to subparagraph (C), the Secretary may provide a payment to an owner, operator, or producer enrolled in a conservation program administered by the Secretary if the owner, operator, or producer elects to obtain technical assistance from a person certified to provide technical assistance under this subsection.

''(C) NONPRIVATE PROVIDERS.—In determining whether to provide a payment under subparagraph (B) to a nonprivate provider, the Secretary shall provide a payment if the provision of the payment would result in an increase in the total amount of technical assistance available to producers, as determined by the Secretary.

''(3) CERTIFICATION OF PROVIDERS OF TECHNICAL ASSISTANCE.—

''(A) PROCEDURES.—

''(i) IN GENERAL.—The Secretary shall establish procedures for certifying persons not employed by the Department to provide technical assistance in planning, designing, or certifying activities to participate in any conservation program administered by the Secretary to agricultural producers and landowners participating, or seeking to participate, in conservation programs administered by the Secretary.

''(ii) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into a cooperative agreement with, a State water quality agency, State fish and wildlife agency, State forestry agency, State conservation agency or conservation district, or any other governmental or nongovernmental organization or person considered appropriate by the Secretary to assist in providing the technical assistance necessary to develop and implement conservation plans under this title.

''(B) EQUIVALENCE.—The Secretary shall ensure that new certification programs of the Department for providers of technical assistance meet or exceed the testing and continuing education standards of any certification program that establishes nationally recognized and accepted standards for training, testing, and other professional qualifications.

''(C) STANDARDS.—The Secretary shall establish standards for the conduct of—

''(i) the certification process conducted by the Secretary; and

''(ii) periodic recertification by the Secretary of providers.

''(D) CERTIFICATION REQUIRED.—

''(i) IN GENERAL.—A provider may not provide to any producer technical assistance described in paragraph (3)(A)(i) unless the provider is certified by the Secretary.

''(ii) WAIVER.—The Secretary may exempt a provider from any requirement of this subparagraph if the Secretary determines that the provider has been certified or recertified to provide technical assistance through a program the standards of which meet or exceed standards established by the Secretary under subparagraph (C).

''(E) FEE.—

''(i) IN GENERAL.—In exchange for certification or recertification, a provider shall pay a fee to the Secretary in an amount determined by the Secretary.

''(ii) ACCOUNT.—A fee paid to the Secretary under clause (i) shall be—

''(I) credited to the account in the Treasury that incurs costs relating to implementing this subsection; and

''(II) made available to the Secretary for use for conservation programs administered by the Secretary, without further appropriation, until expended.

''(iii) WAIVER.—The Secretary may waive any requirement of any provider to pay a fee under this subparagraph if the provider qualifies for a waiver under subparagraph (D)(ii).

''(F) TECHNICAL ASSISTANCE ADVISORY COUNCIL.—

''(i) PURPOSE.—The Secretary shall establish a technical assistance advisory council (referred to in this subparagraph as the 'advisory council') to advise the Secretary with respect to the management of certification programs for the provision of technical assistance for third party providers.

''(ii) MEMBERSHIP.—The membership of the advisory council shall include—

''(I) representatives of the Federal Government and appropriate State and local governments; and

''(II) not more than 20 additional members that represent 2 or more of the following:

''(aa) Agricultural producers.

''(bb) Agricultural industries.

''(cc) Wildlife and environmental entities.

''(dd) A minimum of 6 professional societies and organizations.

''(ee) Such other entities (the representation of which on the advisory council shall not exceed 4 members) as the Secretary determines would contribute to the work of the advisory council.

''(iii) RESPONSIBILITIES.—The advisory council shall advise the Secretary with respect to—

''(I) appropriate standards for certification;

''(II) the status of third party certification programs;

''(III) cases in which waivers for certification, recertification and payment of fees should be allowed;

''(IV) periodic reviews of certification program; and

''(V) guidelines for penalties and disciplinary actions for violation of certification requirements.

''(iv) MEETINGS.—

''(I) INITIAL MEETING.—Not later than 30 days after the date on which all members of the advisory council have been appointed, the advisory council shall hold the initial meeting of advisory council.

''(II) SUBSEQUENT MEETINGS.—The Secretary shall require the advisory council to meet as needed.

''(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph such sums as are necessary for each of fiscal years 2002 through 2006.

''(4) EFFECT ON IMPLEMENTATION.—Nothing in this subsection shall prohibit or impede the expeditious implementation of the provision of third-party technical assistance under this title.

''(5) OTHER REQUIREMENTS.—The Secretary may establish such other requirements as the Secretary determines are necessary to carry out this subsection.

On page 191, strike lines 19 through 21 and insert the following:

''(i) provided to the Secretary or a contractor of the Secretary (including information provided under subtitle D) for the purpose of providing

On page 192, line 3, insert ''(within the meaning of section 552(b)(4) of title 5, United States Code)'' after ''proprietary''.

On page 192, lines 7 and 8, strike ''compiled by the Secretary, such as a list of'' and insert ''regarding''.

On page 193, strike lines 1 through 5 and insert the following:

and producers, and to maintain the integrity of each unit at which primary sampling for data gathering is carried out by the National Resources Inventory (referred to in this subsection as a 'data gathering site'), the specific geographic locations of data gathering sites, and the information generated by the data gathering sites—

On page 194, strike lines 3 and 4 and insert the following:

collecting information from data gathering sites.

On page 194, line 14, strike ''National Resources Inventory''.

On page 194, lines 20 and 21, strike ''that does not allow the identification of'' and insert ''without naming''.

On page 195, between lines 19 and 20, insert the following:

''(5) DATA COLLECTION, DISCLOSURE, AND REVIEW.—Nothing in this subsection—

''(A) affects any procedure for data collection or disclosure through the National Resources Inventory; or

''(B) limits the authority of Congress or the General Accounting Office to review information collected or disclosed under this subsection.

On page 197, line 5, strike ''and'' at the end.

On page 197, line 13, strike the period at the end and insert ''; and''.

On page 197, between lines 13 and 14, insert the following:

(4) improving the regional distribution of program funds and resources to ensure, to the maximum extent practicable, that—

(A) the highest conservation priorities of the United States receive funding; and

(B) regional variations in conservation costs are taken into account.

Beginning on page 205, strike line 12 and all that follows through page 206, line 16, and insert the following:

(d) DURATION OF CONTRACTS; HARDWOOD TREES.—Section 1231(e) of the Food Security Act of 1985 (16 U.S.C. 3831(e)) is amended—

(1) in paragraph (1), by striking ''For the purpose: and inserting ''Except as provided in paragraph (2)(D), for the purpose'';

(2) in paragraph (2)—

(A) by striking ''In the'' and inserting the following:

''(A) IN GENERAL.—In the'';

(B) by striking ''The Secretary'' and inserting the following:

''(B) EXISTING HARDWOOD TREE CONTRACTS.—The Secretary''; and

(C) by adding at the end the following:

''(C) EXTENSION OF HARDWOOD TREE CONTRACTS.—

''(i) IN GENERAL.—In the case of land devoted to hardwood trees under a contract entered into under this subchapter before the date of enactment of this subparagraph, the Secretary may extend the contract for a term of not more than 15 years.

''(ii) RENTAL PAYMENTS.—The amount of a rental payment for a contract extended under clause (i)—

''(I) shall be determined by the Secretary; but

''(II) shall not exceed 50 percent of the rental payment that was applicable to the contract before the contract was extended.

''(D) NEW HARDWOOD TREE CONTRACTS.—

''(i) IN GENERAL.—The Secretary may enter into contracts of not less than 10, nor more than 30, years with owners of land intended to be devoted to hardwood trees after the date of enactment of this paragraph.

''(ii) PAYMENTS.—The Secretary shall make payments under a contract described in clause (i)—

''(I) on an annual basis; and

''(II) at such an appropriate rate and in such appropriate amounts as the Secretary shall determine in accordance with subparagraph (C)(ii).

''(E) HARDWOOD PLANNING GOAL.—The Secretary shall take such steps as the Secretary determines are necessary to ensure, to the

maximum extent practicable, that all hardwood tree sites annually enrolled in the conservation reserve program are reforested with appropriate species.''; and

(3) by adding at the end the following:

''(3) 1-YEAR EXTENSION.—In the case of a contract described in paragraph (1) the term of which expires during calendar year 2002, an owner or operator of land enrolled under the contract may extend the contract for 1 additional year.''.

On page 213, strike line 10 and insert the following:

(l) STUDY ON ECONOMIC EFFECTS.—

(1) IN GENERAL.—Not later than

On page 213, line 15, insert ''and social'' after ''economic''.

On page 213, between lines 19 and 20, insert the following:

(2) COMPONENTS.—The study under paragraph (1) shall include analyses of—

(A) the impact that enrollments in the conservation reserve program described in that paragraph have on rural businesses, civic organizations, and community services (such as schools, public safety, and infrastructure), particularly in communities with a large percentage of whole farm enrollments;

(B) the effect that those enrollments have on rural population and beginning farmers (including a description of any connection between the rate of enrollment and the incidence of absentee ownership); and

(C)(i) the manner in which differential per acre payment rates potentially impact the types of land (by productivity) enrolled;

(ii) changes to the per acre payment rates that may affect that impact; and

(iii) the manner in which differential per acre payment rates could facilitate retention of productive agricultural land in agriculture.

On page 214, line 15, insert ''tribal,'' after ''State,''.

On page 214, line 22, insert ''tribal,'' after ''State,''.

On page 217, line 23, insert ''or improved'' after ''new''.

On page 218, line 1, insert ''or facilitates'' after ''complements''.

On page 220, lines 24 and 25, strike ''facility,'' and insert ''facility (including a methane recovery system),''.

On page 222, line 9, insert ''tribal,'' after ''State,''.

On page 230, line 17, strike ''(a) IN GENERAL.—''.

On page 231, line 1, insert ''tribal,'' after ''State,''.

On page 231, line 7, insert ''prevention and control'' after ''soil erosion''.

On page 231, line 14, strike ''State'' and insert ''State, tribal,''.

On page 234, between lines 6 and 7, insert the following:

''(c) AVOIDANCE OF RESOURCE DEGRADATION.—In carrying out the program, the Secretary shall avoid, to the maximum practicable, any practices that would have a significant adverse effect on ecologically sensitive areas (including wetland), as determined by the Secretary.

On page 234, line 21, insert ''tribal,'' after ''State,''.

On page 236, strike lines 6 through 10 and insert the following:

''(D) reducing negative effects on watersheds, including through the significant reduction in nutrient applications, as determined by the Secretary; and

On page 238, strike lines 17 and 18 and insert the following:

''(C) other educational institutions;

''(D) State cooperative extension services; and

''(E) private organizations.

On page 238, line 21, strike ''1241(b)(1)'' and insert ''1241(b)''.

Beginning on page 240, strike line 5 and all that follows through page 241, line 11, and insert the following:

''(b) NUTRIENT REDUCTION PILOT PROGRAM.—

''(1) DEFINITION OF CHESAPEAKE EXECUTIVE COUNCIL.—In this subsection, the term 'Chesapeake Executive Council' means the Federal-State council—

''(A) comprised of—

''(i) the mayor of the District of Columbia;

''(ii) the Governors of the States of Maryland, Pennsylvania, and Virginia;

''(iii) the Administrator of the Environmental Protection Agency; and

''(iv) the Chair of the Chesapeake Bay Commission; and

''(B) charged with the policy leadership, coordination, and implementation of the region-wide Chesapeake Bay Program restoration effort.

''(2) PROGRAM.—For each of fiscal years 2003 through 2006, the Secretary shall use funds made available to carry out the program, in the amounts specified in paragraph (5), in the Chesapeake Bay watershed to provide incentive payments to producers to—

''(A) reduce nutrient loads to the Chesapeake Bay; and

''(B) achieve the goals of the Chesapeake Executive Council.

''(3) PRIORITY; MEASUREMENT; PAYMENTS.—In carrying out paragraph (2), the Secretary shall—

''(A) give priority to nutrient reduction techniques that reduce nutrient applications rates to a level that is substantially below the level recommended in a best management practice (as identified by the Secretary);

''(B) measure any reduction in nutrient application rates by an appropriate indicator of actual performance (such as the level of nutrients applied or fixed in excess of crop removal); and

''(C) increase the amount of an incentive payment to a producer to reflect superior performance by the producer.

''(4) PARTNERSHIPS.—The Secretary shall carry out this subsection in partnership with—

''(A) State governments;

''(B) nonprofit organizations approved by the Secretary; and

''(C) State colleges and universities.

''(5) FUNDING.—

''(A) IN GENERAL.—Of the amounts made available under section 1241(b) to carry out the program, the Secretary shall use to carry out this subsection—

''(i) $10,000,000 for fiscal year 2003;

''(ii) $15,000,000 for fiscal year 2004;

''(iii) $20,000,000 for fiscal year 2005;

''(iv) $25,000,000 for fiscal year 2006; and

''(v) $0 for fiscal year 2007.

''(B) UNEXPENDED FUNDS.—Any funds made available for a fiscal year under subparagraph (A) that are not obligated by April 1 of the fiscal year shall be used to carry out other activities under this chapter.

On page 243, line 15, strike ''$850,00,000'' and insert ''$850,000,000''.

On page 259, strike lines 6 through 9 and insert the following:

a resource conservation and use plan developed through a planning process by a council for a designated area of 1 or more States, or of land under the jurisdiction of an Indian tribe, that includes 1 or more of the following elements:

On page 260, line 24, insert '', including the production of energy crops'' after ''conservation''.

On page 271, line 18, insert ''(including aquatic habitat)'' after ''habitat''.

On page 272, line 25, strike ''$375,000'' and insert ''$355,000,000''.

On page 273, line 1, strike ''$50,000'' and insert ''$50,000,000''.

On page 277, line 10, insert ''tribal,'' after ''State,''.

On page 283, line 5, strike the closing quotation marks and the following period.

On page 283, between lines 5 and 6, insert the following:

''SEC. 1240Q. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a national grassroots water protection program to more effectively use onsite technical assistance capabilities of each State rural water association that, as of the date of enactment of this section, operates a wellhead or groundwater protection program in the State.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2006.''.

Beginning on page 283, strike line 9 and all that follows through page 288, line 9, and insert the following:

SEC. 2___. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—Chapter 2 of the Food Security Act of 1985 (as added by section 2___) is amended by adding at the end the following:

''Subchapter B—Farmland Protection Program

''SEC. 1238H. DEFINITIONS.

''In this subchapter:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

''(B) any organization that—

''(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

''(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

''(iii) is described in section 509(a)(2) of that Code; or

''(iv) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code.

''(2) ELIGIBLE LAND.—

''(A) IN GENERAL.—The term 'eligible land' means land on a farm or ranch that—

''(i)(I) has prime, unique, or other productive soil; or

''(II) contains historical or archaeological resources; and

''(ii) is subject to a pending offer for purchase from an eligible entity.

''(B) INCLUSIONS.—The term 'eligible land' includes, on a farm or ranch—

''(i) cropland;

''(ii) rangeland;

''(iii) grassland;

''(iv) pasture land; and

''(v) forest land that is part of an agricultural operation, as determined by the Secretary.

''(3) 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).

''(4) PROGRAM.—The term 'program' means the farmland protection program established under section 1238I(a).

''SEC. 1238I. FARMLAND PROTECTION.

''(a) IN GENERAL.—The Secretary, acting through the Natural Resources Conservation Service, shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in eligible land that is subject to a pending offer from an eligible

entity for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

''(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this subchapter shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

''SEC. 1238J. MARKET VIABILITY PROGRAM.

''For each year for which funds are made available to carry out this subchapter, the Secretary may use not more than $10,000,000 to provide matching market viability grants and technical assistance to farm and ranch operators that participate in the program.''.

(b) FUNDING.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) (as amended by section 2____) is amended by adding at the end the following:

''(d) FARMLAND PROTECTION PROGRAM.—

''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out subchapter B of chapter 2 (including the provision of technical assistance), to remain available until expended—

''(A) $150,000,000 in fiscal year 2002;

''(B) $250,000,000 in fiscal year 2003;

''(C) $400,000,000 in fiscal year 2004;

''(D) $450,000,000 in fiscal year 2005;

''(E) $500,000,000 in fiscal year 2006; and

''(F) $100,000,000 in fiscal year 2007.''

''(2) COST SHARING.—

''(A) FARMLAND PROTECTION.—

''(i) SHARE PROVIDED UNDER THIS SUBSECTION.—The share of the cost of purchasing a conservation easement or other interest in eligible land described in section 1238I(a) provided under this subsection shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

''(ii) SHARE NOT PROVIDED UNDER THIS SUBSECTION.—As part of the share of the cost of purchasing a conservation easement or other interest in eligible land described in section 1238I(a) that is not provided under this subsection, an eligible entity may include a charitable donation by the private landowner from which the eligible land is to be purchased of not more than 25 percent of the fair market value of the conservation easement or other interest in eligible land.

''(iii) BIDDING DOWN.—If the Secretary determines that 2 or more applications for the purchase of a conservation easement or other interest in eligible land described in section 1238I(a) are comparable in achieving the purposes of section 1238I, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the farmland protection program established under section 1238I(a).

''(B) MARKET VIABILITY CONTRIBUTIONS.—As a condition of receiving a grant under section 1238J, a grantee shall provide funds in an amount equal to the amount of the grant.''.

(c) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) is repealed.

(2) EFFECT ON CONTRACTS.—The amendment made by paragraph (1) shall have no effect on any contract entered into under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) that is in effect as of the date of enactment of this Act.

On page 286, line 23, strike the closing quotation marks.

Beginning on page 288, strike line 10 and all that follows through page 289, line 7.

On page 290, line 8, insert ''that are located east of the 98th meridian'' before the period.

On page 298, line 24, strike the closing quotation marks and the following period.

On page 298, after line 24, add the following:

''SEC. 1238Q. DELEGATION TO PRIVATE ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary may permit a private conservation or land trust organization (referred to in this section as a 'private organization') or a State agency to hold and enforce an easement under this subchapter, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

''(1) the Secretary determines that granting the permission will promote grassland and shrubland protection;

''(2) the owner authorizes the private organization or State agency to hold and enforce the easement; and

''(3) the private organization or State agency agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the private organization or State agency.

''(b) APPLICATION.—A private organization or State agency that seeks to hold and enforce an easement under this subchapter shall apply to the Secretary for approval.

''(c) APPROVAL BY SECRETARY.—The Secretary may approve a private organization to hold and enforce an easement under this subchapter if (as determined by the Secretary) the private organization—

''(1)(A) 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; or

''(B) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code;

''(2) has the relevant experience necessary to administer grassland and shrubland easements;

''(3) has a charter that describes the commitment of the private organization to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

''(4) has the resources necessary to effectuate the purposes of the charter.

''(d) REASSIGNMENT.—

''(1) IN GENERAL.—If a private organization holding an easement on land under this subchapter terminates, not later than 30 days after termination of the private organization, the owner of the land shall reassign the easement to—

''(A) a new private organization that is approved by the Secretary; or

''(B) the Secretary.

''(2) NOTIFICATION OF SECRETARY.—

''(A) IN GENERAL.—If the easement is reassigned to a new private organization, not later than 60 days after the date of reassignment, the owner and the new organization shall notify the Secretary in writing that a reassignment for termination has been made.

''(B) FAILURE TO NOTIFY.—If the owner and the new organization fail to notify the Secretary of the reassignment in accordance with subparagraph (A), the easement shall revert to the control of the Secretary.''.

On page 307, line 17, strike ''$50,000,000'' and insert ''$45,000,000''.

On page 310, strike lines 1 through 3 and insert the following:

(b) BOARD OF TRUSTEES.—

(1) IN GENERAL.—The Institute shall be headed by a board of trustees composed of producers and handlers of organically grown and processed agricultural commodities appointed by the Secretary.

(2) GEOGRAPHIC REPRESENTATION.—The membership of the Board of Trustees shall reflect equally each of the various regions in the United States in which organically grown and processed agricultural commodities are produced.

Beginning on page 310, strike line 23 and all that follows through page 311, line 12.

On page 311, line 13, strike ''(f)'' and insert ''(e)''.

On page 311, line 16, strike ''(g)'' and insert ''(f)''.

Beginning on page 313, strike line 7 and all that follows through page 320, line 10, and insert the following:

Subtitle E—Miscellaneous

Beginning on page 321, strike line 15 and all that follows through page 328 and insert the following:

SEC. 2___. KLAMATH BASIN.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(2) TASK FORCE.—The term ''Task Force'' means the Klamath Basin Interagency Task Force established under subsection (b).

(b) INTERAGENCY TASK FORCE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of the Interior, shall establish the Klamath Basin Interagency Task Force.

(B) APPROVAL OF MEMBER.—A decision of the Task Force that affects any area under the jurisdiction of a member of the Task Force described in paragraph (2) shall not be implemented without the consent of the member.

(2) MEMBERSHIP.—The Task Force shall include representatives of—

(A) the Department of Agriculture, including—

(i) the Natural Resources Conservation Service; and

(ii) the Farm Service Agency;

(B) the Department of the Interior, including—

(i) the United States Fish and Wildlife Service;

(ii) the Bureau of Reclamation; and

(iii) the Bureau of Indian Affairs;

(C) the Department of Commerce, including the National Marine Fisheries Service;

(D) the Council on Environmental Quality;

(E) the Federal Energy Regulatory Commission;

(F) the Environmental Protection Agency; and

(G) the United States Geological Survey.

(3) DUTIES.—The Task Force shall use conservation programs of the Department of Agriculture and other Federal programs in the Klamath Basin in Oregon and California for the purposes of—

(A) promoting agricultural production and environmental quality as compatible Klamath Basin goals;

(B) water conservation and improved agricultural practices;

(C) aquatic ecosystem restoration;

(D) improvement of water quality and quantity;

(E) recovery and enhancement of endangered species, including anadromous fish species and resident fish species; and

(F) restoration of the national wildlife refuges.

(4) COOPERATIVE AGREEMENT.—The Secretary of Agriculture, Secretary of the Interior, and Secretary of Commerce 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 paragraph (3).

(5) GRANT PROGRAM.—

(A) IN GENERAL.—The Task Force shall establish a grant program (including appropriate cost-sharing, monitoring, and enforcement requirements) under which the Secretary of Agriculture, the Secretary of the Interior, or the 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 paragraph (3).

(B) CONTRACT TERMS.—An agreement or contract under subparagraph (A) shall—

(i) specify the responsibilities of the entity and the Secretary under the agreement or contract;

(ii) provide for such cost-sharing as the Secretary considers appropriate; and

(iii) include mechanisms for monitoring and enforcement requirements.

(c) REPORT AND PLAN.—

(1) DEVELOPMENT.—

(A) REPORT.—Not later than 180 days after the date of enactment of this Act, the Task Force, after soliciting input from the States of California and Oregon, local public agencies, Indian tribes, Klamath Project districts, environmental organizations, and the stakeholder community, shall issue a report that—

(i) considers the impacts of the biological assessment, the biological opinion, activities of the Upper Klamath Basin Working Group, activities of the Pacific Fisheries Restoration Task Force, State water adjudications, and the resolution of tribal rights, that may affect actions of the Task Force; and

(ii) includes a description of Federal spending in the Klamath Basin for fiscal years 2000, 2001, and 2002.

(B) DRAFT PLAN.—Not later than 60 days after completion of the report under subparagraph (A), the Task Force shall develop, and provide public notice of and an opportunity for comment on, a draft 5-year plan to perform the duties of the Task Force under subsection (b)(3).

(C) FINAL PLAN.—Not later than 1 year after the date of enactment of this Act, the Task Force shall finalize the plan described in subparagraph (B).

(2) MATTERS TO BE CONSIDERED.—In developing the plan under paragraph (1), the Task Force shall consider—

(A) the use of water conservation easements by voluntary participants;

(B) purchase of agricultural land from willing sellers, with priority given to land that will enhance natural water storage capabilities;

(C) benefits to the agricultural economy through incentives for the use of irrigation efficiency, water conservation, or other agricultural practices;

(D) wetland restoration;

(E) feasibility studies for alternative water storage, water conservation, demand reduction, and restoration of endangered species;

(F) improvement of upper Klamath Basin watershed and water quality;

(G) improvement of habitat in the Tule Lake National Wildlife Refuge, the Lower Klamath National Wildlife Refuge, and the Upper Klamath Lake National Wildlife Refuge; and

(H) fish screening and water metering.

(d) COOPERATION WITH NON-FEDERAL ENTITIES.—In carrying out the duties of the Task Force under this section, the Task Force shall—

(1) consult with—

(A) environmental, fishing, and agricultural interests; and

(B) on a government-to-government basis, the Klamath, Hoopa, Yurok, and Karuk Tribes;

(2) provide appropriate opportunities for public participation; and

(3) hold meetings at least once every 3 months in the Klamath Basin with opportunities for stakeholder participation.

(e) FUNDING.—

(1) IN GENERAL.—To carry out the purposes described in subsection (b)(3), the Secretary shall use $175,000,000 of the funds of the Commodity Credit Corporation for the period of fiscal years 2003 through 2006, of which—

(A) $15,000,000 shall be made available to the Klamath, Hoopa, Yurok, and Karuk Tribes for use in the State of California; and

(B) $15,000,000 shall be made available to those Tribes for use in the State of Oregon.

(2) FUNDS MADE AVAILABLE TO THE TRIBES.—

(A) IN GENERAL.—The funds made available to the Tribes under paragraph (1) shall be for projects for specific habitat improvement related to the recovery of threatened and endangered species to be carried out by the appropriate tribal natural resources department, consistent with the purposes of this section.

(B) REPORTS.—The Tribes shall provide a biennial report to the Task Force on expenditures of funds during the period covered by the report.

(3) OTHER FUNDS.—The funds made available under paragraph (1) shall be in addition to funds available to the States of California and Oregon under other provisions of this Act (including amendments made by this Act).

(4) UNUSED FUNDING.—Any funds made available for a fiscal year under paragraph (1) that are not obligated by April 1, 2006, may be used to carry out other activities under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

(5) EXPIRATION OF AUTHORITY TO OBLIGATE FUNDS.—The Secretary may not obligate funds made available under this subsection after September 30, 2006.

(f) SAVINGS PROVISION.—Nothing in this section regarding the Klamath Basin affects any right or obligation of any party under any treaty or any other provision of Federal or State law.

(g) COOPERATIVE AGREEMENTS.—Notwithstanding the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.), the Secretary may enter into cooperative agreements under this section.

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:

SEC. 3___. FOOD AID CONSULTATIVE GROUP.

Section 205(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725(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 26.

On page 336, line 1, 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:

SEC. 3___. SALE 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:

''(1) IN GENERAL.—In carrying out this Act, the Secretary''; and

(B) by adding at the end the following:

''(2) CURRENCIES.—Sales of commodities described in paragraph (1) may be in United States dollars or in a different currency.'';

(2) in subsection (e)—

(A) by striking ''In carrying'' and inserting the following:

''(1) IN GENERAL.—In carrying''; and

(B) by adding at the end the following:

''(2) SALE PRICE.—Sales of commodities described in paragraph (1) shall be made at a reasonable market price in the economy where the commodity is to be sold, as determined by the Secretary or the Administrator, as appropriate.''; and

(3) by adding at the end the following:

''(1) SALE PROCEDURE.—Subsections (b)(2) and (e)(2) shall apply to sales of commodities in recipient countries to generate proceeds to carry out projects under—

''(1) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

''(2) title VIII of the Agricultural Trade Act of 1978.''.

On page 340, line 1, insert ''**JOHN OGONOWSKI**'' before ''**FARMER-TO-FARMER PROGRAM**''.

On page 340, line 12, strike ''180'' and insert ''180 days''.

On page 340, line 13, strike ''360'' and insert ''12 months''.

On page 343, line 6, strike ''7251'' and insert ''5721''.

Beginning on page 349, strike line 13 and all that follows through page 350, line 13, and insert the following:

''(a) IN GENERAL.—There are established the Food for Progress Program and the International Food for Education and Nutrition Program through which eligible commodities are made available to eligible organizations to carry out programs of assistance in developing countries.

''(b) FOOD FOR PROGRESS PROGRAM.—

''(1) IN GENERAL.—To provide agricultural commodities to support the introduction or expansion of free trade enterprises in national economies and to promote food security in recipient countries, the Secretary shall establish the Food for Progress Program, under which the Secretary may enter into agreements (including multiyear agreements and agreements for programs in more than 1 country) with entities described in paragraph (2).

''(2) ENTITIES.—The Secretary may enter into agreements under paragraph (1) with—

''(A) the governments of emerging agricultural countries;

''(B) private voluntary organizations;

''(C) nonprofit agricultural organizations and cooperatives;

''(D) nongovernmental organizations; and

''(E) other private entities.

''(3) CONSIDERATIONS.—In determining whether to enter into an agreement to establish a program under paragraph (1), the Secretary shall take into consideration whether an emerging agricultural country is committed to carrying out, or is carrying out, policies that promote—

''(A) economic freedom;

''(B) private production of food commodities for domestic consumption; and

''(C) the creation and expansion of efficient domestic markets for the purchase and sale of those commodities.

On page 350, strike line 18.

On page 352, between lines 19 and 20, insert the following:

''(6) 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 a national action plan, the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the followup Dakar Framework for Action of the World Education Forum in 2000; and

''(C) the projected costs of an eligible organization for administration, sales, monitoring, and technical assistance under 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.

''(7) 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 $150,000,000 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.

''(C) REALLOCATION.—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 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 exchanges 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.

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 ''(6)(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 (b).''.

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 ''(viii)'' and insert ''(vi)''.

On page 367, line 10, strike ''(ix)'' and insert ''(vii)''.

On page 367, line 11, strike ''(viii)'' and insert ''(vi)''.

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 appropriations Act or reallocated under subsection (c)(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) through (vii) of subparagraph (A); and

''(ii) of the amount provided under clause (i), not more than $12,000,000 shall be made available to cover costs under clauses (vi) and (vii) of subparagraph (A).

On page 367, line 24, strike ''(8)'' and insert ''(7)''.

On page 368, line 5, strike ''(7)(A)(ix)(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 382, between lines 14 and 15, insert the following:

SEC. 3___. REPORT ON USE OF PERISHABLE COMMODITIES.

Not later than 120 days after the date of enactment of this Act, the Secretary of Agriculture shall develop 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 deficiencies in transportation and storage infrastructure and deficiencies in funding that have limited the use, and expansion of use, of highly perishable and semiperishable commodities in international food aid programs of the Department of Agriculture.

SEC. 3___. SENSE OF SENATE CONCERNING FOREIGN ASSISTANCE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the international community faces a continuing epidemic of ethnic, sectarian, and criminal violence;

(2) poverty, hunger, political uncertainty, and social instability are the principal causes of violence and conflict around the world;

(3) broad-based, equitable economic growth and agriculture development facilitates political stability, food security, democracy, and the rule of law;

(4) democratic governments are more likely to advocate and observe international laws, protect civil and human rights, pursue free market economies, and avoid external conflicts;

(5) the United States Agency for International Development has provided critical democracy and governance assistance to a majority of the nations that successfully made the transition to democratic governments during the past 2 decades;

(6) 43 of the top 50 consumer nations of American agricultural products were once United States foreign aid recipients;

(7) in the past 50 years, infant child death rates in the developing world have been reduced by 50 percent, and health conditions around the world have improved more during this period than in any other period;

(8) the United States Agency for International Development child survival programs have significantly contributed to a 10 percent reduction in infant mortality rates worldwide in just the past 8 years;

(9) in providing assistance by the United States and other donors in better seeds and teaching more efficient agricultural techniques over the past 2 decades have helped make it possible to feed an additional 1,000,000,000 people in the world;

(10) despite this progress, approximately 1,200,000,000 people, one-quarter of the world's population, live on less that $1 per day, and approximately 3,000,000,000 people live on only $2 per day;

(11) 95 percent of new births occur in developing countries, including the world's poorest countries; and

(12) only ½ percent of the Federal budget is dedicated to international economic and humanitarian assistance.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) United States foreign assistance programs should play an increased role in the global fight against terrorism to complement the national security objectives of the United States;

(2) the United States should lead coordinated international efforts to provide increased financial assistance to countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism; and

(3) the United States Agency for International Development and the Department of Agriculture should substantially increase humanitarian, economic development, and agricultural assistance to foster international peace and stability and the promotion of human rights.

On page 404, between lines 7 and 8, insert the following:

SEC. 4___. REDEMPTION OF BENEFITS THROUGH GROUP LIVING ARRANGEMENTS.

Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2019) 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(i) has been implemented.''.

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 increases in errors that result from the State agency's having a higher percentage of participating households that have earned income than the lesser of—

''(I) the percentage of participating households in all States that have earned income; or

''(II) 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 increases 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—

''(I) the percentage of participating households in all States that have 1 or more members who are not United States citizens; or

''(II) the percentage of participating households in the State in fiscal year 1998 that had 1 or more members who were not United States citizens.

''(B) ADDITIONAL ADJUSTMENTS.—For

On page 419, line 16, strike ''430(a)(6))'' and insert ''____(a)(6))''.

Beginning on page 427, strike line 23 and all that follows through page 428, line 5, and insert the following:

(c) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(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. 2025(h)(3)) is amended by striking ''except that such total amount shall not exceed an amount representing $25 per participant per month'' and inserting ''except that, in the case of each of fiscal years 2002 through 2009, such total amount shall not exceed an amount representing $50 per participant per month''.

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 Comptroller General of the United States 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. 2028); 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 Comptroller General 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 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. 2028) (in addition to amounts made available to carry out that section under law other than this subsection) $50,000,000 for each fiscal year.

(3) LIMITATION.—No amounts may be made available to carry out paragraph (2) 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 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 441, after line 22, add the following:

SEC. 4___. USE OF APPROVED FOOD SAFETY TECHNOLOGY.

(a) IN GENERAL.—Section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036) (as amended by section 4___) is amended by adding at the end the following:

''(d) USE OF APPROVED FOOD SAFETY TECHNOLOGY.—

''(1) IN GENERAL.—In acquiring commodities for distribution through a program specified in paragraph (2), the Secretary shall not prohibit the use of any technology to improve food safety that has been approved by the Secretary or the Secretary of Health and Human Services.

''(2) PROGRAMS.—A program referred to in paragraph (1) is a program authorized under—

''(A) this Act;

''(B) the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86);

''(C) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

''(D) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); or

''(E) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

On page 442, line 3, strike ''The Food'' and insert the following:

(a) IN GENERAL.—The Food

On page 444, between lines 16 and 17, insert the following:

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

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 caseload slot for the preceding fiscal year, 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 of the second preceding fiscal year; and

''(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''; and

(3) by striking subsection (l).

On page 454, after line 22, add the following:

SEC. 4___. REPORT ON CONVERSION OF WIC PROGRAM INTO AN INDIVIDUAL ENTITLEMENT PROGRAM.

(a) FINDINGS.—Congress finds that the special supplemental nutrition program for woman, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) (referred to in this section as the 'WIC program')—

(1) safeguards the health of low-income pregnant, postpartum, and breast-feeding women, infants, and children up to 5 years of age who are at nutritional risk through the delivery of individualized food packages, nutrition education, and health referrals;

(2) is associated with a variety of desirable outcomes, including lower incidence of infant mortality, reduced prevalence of very low birth weights, improved nutrient intake among children, improved cognitive development among children, and lower Medicaid costs for women who participate;

(3) is recognized generally as a leading national health and nutrition program;

(4) as a discretionary program, can have inappropriate funding because funding levels must be determined early in the year by the President and the Committees on Appropriations of the House of Representatives and the Senate (referred to in this subsection as the ''Committees'');

(5) can have funding shortfalls in some years because the economy worsens between the time that funding levels are established and the fiscal year is underway;

(6) may have to deny service or reduce benefits to eligible women, infants, and children in some States as a result of these funding shortfalls;

(7) may be provided with more funding than is required in those years in which the economy improves between the time that funding levels are established and the fiscal year is underway, with the result that the President and the Committees will have committed funds to the WIC program that could have been devoted to other priorities; and

(8) would not have this funding uncertainty if the WIC program were an entitlement program that provided benefits to every eligible woman, infant, and child seeking benefits.

(b) REPORT.—Not later than December 31, 2002, the Secretary of Agriculture shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report that analyzes the conversion of the WIC program

from a discretionary program into an individual entitlement program.

(c) CONTENTS.—The report shall—

(1) analyze the conversion of the WIC program into an individual entitlement program, rather than a capped entitlement program for States;

(2) analyze the conversion using at least 3 separate scenarios, including—

(A) 1 scenario under which the costs to the Federal Government approximate current projected funding levels;

(B) 1 scenario under which the costs to the Federal Government approximate current projected funding levels plus 5 percent; and

(C) 1 scenario under which the costs to the Federal Government approximate current projected funding levels plus 7 percent; and

(3) address—

(A) the levels at which, and manner by which, States will be reimbursed for food package costs and administrative costs;

(B) how current cost containment savings will be preserved;

(C) how reimbursement rates will be adjusted annually to reflect inflation or other factors affecting food prices;

(D) how program benefits and services will be affected by the conversion to an individual entitlement program; and

(E) any other issues that arise from converting the WIC program to an individual entitlement program, as determined by the Secretary of Agriculture.

(d) CONSULTATION.—In preparing the report, the Secretary of Agriculture shall consult with—

(1) the Committee on Education and the Workforce of the House of Representatives;

(2) the Committee on Agriculture, Nutrition and Forestry of the Senate;

(3) membership organizations representing State directors and local agencies administering the WIC program;

(4) Governors and other State officials;

(5) research and policy organizations that have a history of carrying out activities on issues affecting the WIC program; and

(6) advocacy organizations representing the needs of the population that is eligible to participate in the WIC program.

(e) FUNDING.—Notwithstanding any other provision of law, the Secretary shall carry out this section using funds made available for necessary expenses to carry out the WIC program.

SEC. 4___. COMMODITY DONATIONS.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (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 following:

"SEC. 17. COMMODITY DONATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law concerning commodity donations, any commodities acquired in the conduct of the operations of the Commodity Credit Corporation and any commodities acquired under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to the extent that the commodities are in excess of the quantities of commodities needed to carry out other authorized activities of the Commodity Credit Corporation and the Secretary (including any quantity specifically reserved for a specific purpose), may be used for any program 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 1983 (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. 3001 et seq.); or

''(5) such other laws as the Secretary determines to be appropriate.''.

SEC. 4___. PURCHASES OF LOCALLY PRODUCED FOODS.

(a) IN GENERAL.—The Secretary of Agriculture 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 4 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) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and post information concerning the policy on the website maintained by the Secretary; and

(3) in accordance with requirements established by the Secretary, provide start-up grants to not more than 200 institutions to defray the initial costs of equipment, materials, and storage facilities, and similar costs, incurred in carrying out the policy described in paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(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 specifically provided by an appropriation Act.

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' markets, roadside stands, and community-supported agriculture 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 Agriculture to carry out any similar program under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

SEC. 4___7. FARMERS' MARKET NUTRITION PROGRAM.

Section 17(m)(9) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)) is amended—

(1) by striking ''(9)(A) There'' and inserting the following:

''(9) FUNDING.—

''(A) IN GENERAL.—

''(i) AUTHORIZATION OF APPROPRIATIONS.—There''; and

(2) in subparagraph (A), by adding at the end the following:

''(ii) MANDATORY FUNDING.—

''(I) IN GENERAL.—Not later than 30 days after the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $15,000,000.

''(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subclause (I), without further appropriation.''.

On page 457, strike lines 6 through 8 and insert the following:

(1) IN GENERAL.—Not later than 1 year after the implementation of the pilot program required by subsection (a), the Secretary (acting through the Economic Research Service) shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an evaluation of the results of the pilot program to determine—

On page 457, line 12, strike ''and''.

On page 457, line 14, strike the period at the end and insert ''; and''.

On page 457, between lines 14 and 15, insert the following:

(F) what effect, if any, the pilot program had on the sale of meals served under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

On page 536, strike lines 5 through 8 and insert the following:

''(3) a description of how the company intends to work with community-based organizations and local entities (including local economic development companies, local lenders, and local investors) and to seek to address the unmet equity capital needs of the communities served;

On page 539, strike lines 8 through 20 and insert the following:

''(d) APPROVAL; DESIGNATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may approve an applicant to operate as a Rural Business Investment Company under this subtitle and designate the applicant as a Rural Business Investment Company, if—

''(A) the Secretary determines that the application satisfies the requirements of subsection (b);

''(B) the area in which the Rural Business Investment Company is to conduct its operations, and establishment of branch offices or agencies (if authorized by the articles), are approved by the Secretary; and

''(C) the applicant enters into a participation agreement with the Secretary.

''(2) CAPITAL REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, the Secretary may approve an applicant to operate as a Rural Business Investment Company under this subtitle and designate the applicant as a Rural Business Investment Company, if the Secretary determines that the applicant—

''(i) has private capital of less than $2,500,000;

''(ii) would otherwise be approved under this subtitle, except that the applicant does not satisfy the requirements of section 384I(c); and

''(iii) has a viable business plan that reasonably projects profitable operations and that has a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 384I(c).

''(B) LEVERAGE.—An applicant approved under subparagraph (A) shall not be eligible to receive leverage under this subtitle until the applicant satisfies the requirements of section 384I(c).

''(C) GRANTS.—An applicant approved under subparagraph (A) shall be eligible for grants under section 384H in proportion to the private capital of the applicant, as determined by the Secretary.

On page 540, strike lines 11 through 17 and insert the following:

''(1) guarantee the debentures issued by a Rural Business Investment Company only to the extent that the total face amount of outstanding guaranteed debentures of the Rural Business Investment Company does not exceed the lesser of—

''(A) 300 percent of the private capital of the Rural Business Investment Company; or

''(B) $105,000,000; and

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 section 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 operational assistance in connection with an equity or prospective equity investment in a business located in a rural area.

''(d) SUBMISSION OF PLANS.—A Rural Business Investment Company shall be eligible for a grant under this section only if the Rural Business Investment Company submits to the Secretary, in such form and manner as the Secretary may require, a plan for use of the grant.

''(e) GRANT AMOUNT.—

''(1) RURAL BUSINESS INVESTMENT COMPANIES.—The amount of a grant made under this section to a Rural Business Investment Company shall be equal to the lesser of—

''(A) 10 percent of the private capital 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 accordance with the requirements applicable to Rural Business Investment Companies under this subtitle.

On page 550, line 7, strike ''and''.

On page 550, line 10, strike the period at the end and insert a semicolon.

On page 550, between lines 10 and 11, insert the following:

''(D) ensure that the Rural Business Investment Company is designed primarily to meet equity capital needs of the businesses in which the Rural Business Investment Company invests and not to compete with traditional small business financing by commercial lenders; and

''(E) require that the Rural Business Investment Company makes short-term nonequity investments of less than 5 years only to the extent necessary to preserve an existing investment.

Beginning on page 550, strike line 20 and all that follows through page 551, line 12, and insert the following:

''SEC. 384J. FINANCIAL INSTITUTION INVESTMENTS.

''(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding any other provision of law, the following banks, associations, and institutions are eligible both to establish and invest in any Rural Business Investment Company or in any entity established to invest solely in Rural Business Investment Companies:

''(1) Any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.)

''(2) Any Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)).

On page 551, lines 22 and 23, strike ''30 percent of the voting'' and insert ''15 percent of the''.

On page 552, line 5, strike ''**REQUIREMENT**'' and insert ''**REQUIREMENTS**''.

On page 552, line 6, insert ''(a) RURAL BUSINESS INVESTMENT COMPANIES.—'' before ''Each''.

On page 552, between lines 19 and 20, insert the following:

''(b) PUBLIC REPORTS.—

''(1) IN GENERAL.—The Secretary shall prepare and make available to the public an annual report on the program established under this subtitle, including detailed information on—

''(A) the number of Rural Business Investment 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 Business Investment Companies during the previous fiscal year and how each number compares to previous fiscal years;

''(D) the number of Rural Business Investment Company licenses surrendered and the number of Rural Business Investment Companies placed in liquidation during the previous fiscal year, identifying the amount of leverage each Rural Business Investment Company has received from the Federal Government and the type of leverage instruments 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 expect 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 administer the Rural Business Investment Program under this subtitle during the previous fiscal year and to ensure compliance with the requirements of this subtitle (including regulations);

''(G) the amount of Federal Government leverage that each licensee received in the previous fiscal year and the types of leverage instruments each licensee used;

''(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 extent 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 Business Investment Company or small business concern in which a Rural Business Investment Company invests; and

''(B) may not release any information that is prohibited under section 1905 of title 18, United States Code.

On page 568, strike line 5 and insert the following:

''(C) WAIVER FOR INDIAN TRIBES.—The Secretary may, at the request of an Indian tribe, waive the requirement under subparagraph (B)(ii) with respect to an application submitted by the Indian tribe for multiple eligible rural areas under the jurisdiction of the Indian tribe.

''(D) AMOUNT OF ENDOWMENT GRANTS.—

On page 568, line 13, insert ''or Indian tribe'' before the period at the end.

On page 569, strike lines 24 and 25 and insert the following:

may receive a supplemental grant in an amount of—

''(A) not more than $100,000; or

''(B) in the case of a regional application approved under a waiver by the Secretary under subsection (b)(2)(C), not more than $200,000.

On page 576, line 9, insert ''or poor Indian tribe'' after ''area''.

On page 582, line 17, strike ''grant'' and insert ''grant, loan, or loan guarantee''.

On page 582, strike lines 18 through 20 and insert the following:

''(1) be able to furnish, improve, or extend a broadband service to an eligible rural community; and

On page 586, strike line 3 and insert the following:

''(k) GRANTS FOR PLANNING AND FEASIBILITY STUDIES ON BROADBAND DEPLOYMENT.—

''(1) IN GENERAL.—In addition to any other grants, loans, or loan guarantees made under this section, the Secretary shall make grants to eligible entities specified in paragraph (2) for planning and feasibility studies carried out by those entities on the deployment of broadband services in the areas served by those entities.

''(2) ELIGIBLE ENTITIES.—The entities eligible for grants under this subsection are—

''(A) State governments;

''(B) local governments (including consortia of local governments);

''(C) tribal governments;

''(D) telecommunications cooperatives; and

''(E) appropriate State and regional nonprofit entities (as determined by the Secretary).

''(3) ELIGIBILITY CRITERIA.—

''(A) IN GENERAL.—The Secretary shall establish criteria for eligibility for grants under this subsection, including criteria for the scope of the planning and feasibility studies to be carried out with grants under this subsection.

''(B) CONTRIBUTION BY GRANTEE.—An entity may not be awarded a grant under this subsection unless the entity agrees to contribute (out of funds other than the grant amount) to the planning and feasibility study to be funded by the grant an amount equal to the amount of the grant.

''(4) APPLICATION.—An entity seeking a grant under this subsection shall submit to the Secretary an application for the grant that is in such form, and that contains such information, as the Secretary shall require.

''(5) USE OF GRANT AMOUNTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an entity that receives a grant under this subsection shall use the grant amount for planning and feasibility studies on the deployment of broadband services in the area of—

''(i) an Indian tribe;

''(ii) a local government;

''(iii) a State;

''(iv) a region of a State; or

''(v) a region of States.

''(B) LIMITATION.—Grant amounts under this subsection may not be used for the construction of buildings or other facilities, the acquisition or improvement of existing buildings or facilities, or the leasing of office space.

''(6) LIMITATION ON GRANT AMOUNTS.—

''(A) STATEWIDE GRANTS.—The amount of the grants made under this subsection in or with respect to any State in any fiscal year may not exceed $250,000.

''(B) LOCAL GOVERNMENT, REGIONAL, OR TRIBAL GRANTS.—The amount of the grants

made under this subsection in or with respect to any local government, region, or tribal government in any fiscal year may not exceed $100,000.

''(7) RESERVATION OF FUNDS FOR GRANTS.—

''(A) IN GENERAL.—For each fiscal year, up to 3 percent of the funds made available to carry out this section for the fiscal year shall be reserved for grants under this subsection.

''(B) RELEASE.—Funds reserved under subparagraph (A) for a fiscal year shall be reserved only until April 1 of the fiscal year.

''(8) SUPPLEMENT NOT SUPPLANT.—

''(A) IN GENERAL.—Eligibility for a grant under this subsection shall not affect eligibility for a grant, loan, or loan guarantee under another subsection of this section.

''(B) CONSIDERATIONS.—The Secretary shall not take into account the award of a grant under this subsection, or the award of a grant, loan, or loan guarantee under another subsection of this section, in awarding a grant, loan, or loan guarantee under this subsection or another subsection of this section, as the case may be.

''(l) TERMINATION OF AUTHORITY.—

On page 589, line 10, strike ''or'' at the end.

On page 589, line 14, strike the period at the end and insert ''; or''.

On page 589, between lines 14 and 15, insert the following:

''(iii) to create, expand, or operate value-added processing in an area described in paragraph (3)(B)(ii) in connection with production agriculture.

On page 589, strike lines 19 through 21 and insert the following:

''(B) PRIORITY.—The Secretary shall give priority to—

''(i) grant proposals for less than $200,000 submitted under this subsection; and

''(ii) grant proposals submitted by an eligible nonprofit entity with a principal office that is located—

''(I) on land of an existing or former Native American reservation; and

''(II) in a city, town, or unincorporated area that has a population of no more than 5,000 inhabitants.

On page 615, strike lines 4 through 6 and insert the following:

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended—

(1) by striking ''$7,500,000'' and inserting ''$15,000,000''; and

(2) by striking ''2002'' and inserting ''2006''.

Beginning on page 613, strike line 7 and all that follows through page 615, line 2, and insert the following:

''(B) REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS.—

''(i) IN GENERAL.—The Secretary may make grants to qualified private, nonprofit entities to capitalize revolving funds for the purpose of providing financing to eligible entities for—

''(I) predevelopment costs associated with proposed water and wastewater projects or with existing water and wastewater systems; and

''(II) short-term costs incurred for replacement equipment, small-scale extension services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

''(ii) ELIGIBLE ENTITIES.—To be eligible to obtain financing from a revolving fund under clause (i), an eligible entity shall be eligible to obtain a loan, loan guarantee, or grant under paragraph (1) or this paragraph.

''(iii) MAXIMUM AMOUNT OF FINANCING.—The amount of financing made to an eligible entity under this subparagraph shall not exceed—

''(I) $100,000 for costs described in clause (i)(I); and

''(II) $100,000 for costs described in clause (i)(II).

''(iv) TERM.—The term of financing provided to an eligible entity under this subparagraph shall not exceed 10 years.

''(v) ADMINISTRATION.—The Secretary shall limit the amount of grant funds that may be used by a grant recipient for administrative costs incurred under this subparagraph.

''(vi) ANNUAL REPORT.—A nonprofit entity receiving a grant under this subparagraph shall submit an annual report to the Secretary that describes the number and size of communities served and the type of financing provided.

''(vii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subparagraph $30,000,000 for each of fiscal years 2002 through 2006.''.

On page 624, after line 24, add the following:

SEC. 6___. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 6___) is amended by adding at the end the following:

''(27) TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.—

''(A) IN GENERAL.—The Secretary may make grants to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)) to provide the Federal share of the cost of developing specific tribal college or university essential community facilities in rural areas.

''(B) FEDERAL SHARE.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph.

''(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

''(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale of the percentages of the cost covered by a grant made under this paragraph, with higher percentages for facilities in communities that have lower community population and income levels, as determined by the Secretary.

''(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2003 through 2006.''.

On page 626, between lines 5 and 6, insert the following:

SEC. 6___. RURAL BUSINESS ENTERPRISE GRANTS.

Section 310B(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)(1)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(A) GRANTS.—The Secretary''; and

(2) by adding at the end the following:

''(B) SMALL AND EMERGING PRIVATE BUSINESS ENTERPRISES.—

''(i) IN GENERAL.—For the purpose of subparagraph (A), a small and emerging private business enterprise shall include (regardless of the number of employees or operating capital of the enterprise) an eligible nonprofit entity, or other tax exempt organization, with a principal office in an area that is located—

''(I) on land of an existing or former Native American reservation; and

''(II) in a city, town, or unincorporated area that has a population of no more than 5,000 inhabitants.

''(ii) USE OF GRANT.—An eligible nonprofit entity, or other tax exempt organization, described in clause (i) may use assistance provided under this paragraph to create, expand, or operate value-added processing in an area described in clause (i) in connection with production agriculture.

''(iii) PRIORITY.—In making grants under this paragraph, the Secretary shall give priority to grants that will be used to provide assistance to eligible nonprofit entities and other tax exempt organizations described in clause (i).''.

On page 626, strike lines 7 through 9 and insert the following:

Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended—

(1) in paragraph (5)(F), before the period at the end the following: '', except that the Secretary shall not require non-Federal financial support in an amount that is greater than 5 percent in the case of a 1994 institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382))''; and

(2) in paragraph (9), by striking ''2002'' and inserting ''2006''.

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 MICROENTERPRISE ASSISTANCE PROGRAM; NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND; RURAL BUSINESS INVESTMENT PROGRAM.—In section 378 and subtitles G and H, the term 'rural area' means an area that is located—

On page 639, between lines 14 and 15, insert the following:

(3) Section 735 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–29) is repealed.

On page 650, strike lines 8 through 11 and insert the following:

''(4) 1 representative of the Secretary of the Interior;

''(5) 1 representative of the Secretary of Transportation; and

''(6) representatives of such other Federal agencies as the Secretary may designate.

On page 664, strike lines 4 through 13 and insert the following:

SEC. 6___. GRANTS FOR TRAINING FARM WORKERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6___) is amended by adding at the end the following:

''SEC. 379E. GRANTS FOR TRAINING FARM WORKERS.

''(a) DEFINITION OF ELIGIBLE ORGANIZATION.—In this section, the term 'eligible organization' means—

''(1) a nonprofit organization; or

''(2) a consortium of nonprofit organizations, agribusinesses, State and local governments, agricultural labor organizations, farmer cooperatives, or community-based organizations

that has the ability to train farm workers.

''(b) GRANTS.—The Secretary shall make grants to eligible organizations to provide training to farm workers—

''(1) on the use of technology in agriculture; and

''(2) to develop the specialized skills necessary to produce higher value crops.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2006.''.

On page 664, strike line 14 and insert the following:

SEC. 6___. DELTA REGIONAL AUTHORITY.

(a) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 382D of the Consolidated

Farm and Rural Development Act (7 U.S.C. 2009aa–3) is amended to read as follows:

"SEC. 382D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

''(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

''(1) they lack the economic resources to provide the required matching share; or

''(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

''(b) FEDERAL GRANT PROGRAM FUNDING.—Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations, under any Federal grant program, and in accordance with subsection (c), the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region, may—

''(1) increase the Federal share of the costs of a project under any Federal grant program to not more than 90 percent (except as provided in section 382F(b)); and

''(2) use amounts made available to carry out this subtitle to pay all or a portion of the increased Federal share.

''(c) CERTIFICATIONS.—

''(1) IN GENERAL.—In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

''(A) meets (except as provided in subsection (b)) the applicable requirements of the applicable Federal grant program; and

''(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

''(2) CERTIFICATION BY AUTHORITY.—

''(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 382I—

''(i) shall be controlling; and

''(ii) shall be accepted by the Federal agencies.

''(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.''.

On page 664, line 15, strike ''(a)'' and insert ''(b)''.

On page 664, line 19, strike ''(b)'' and insert ''(c)''.

On page 664, after line 22, insert the following:

(d) DELTA REGION AGRICULTURAL ECONOMIC DEVELOPMENT.—Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6___) is amended by adding at the end the following:

"SEC. 379F. DELTA REGION AGRICULTURAL ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary may make grants to assist in the development of state-of-the-art technology in animal nutrition (including research and development of the technology) and value-added manufacturing to promote an economic platform for the Delta region (as defined in section 382A) to relieve severe economic conditions.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2002 through 2006.''.

(e) DEFINITION OF LOWER MISSISSIPPI.—Section 4(2)(I) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460) is amended by inserting ''Butler, Conecuh, Escambia, Monroe,'' after ''Russell,''.

Beginning on page 675, strike line 17 and all that follows through page 708, line 12, and insert the following:

SEC. 6___. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

The Consolidated Farm and Rural Development Act (as amended by section 6___) is amended by adding at the end the following:

"Subtitle K—Northern Great Plains Regional Authority

"SEC. 387A. DEFINITIONS.

''In this subtitle:

''(1) AUTHORITY.—The term 'Authority' means the Northern Great Plains Regional Authority established by section 387B.

''(2) FEDERAL GRANT PROGRAM.—The term 'Federal grant program' means a Federal grant program to provide assistance in—

''(A) implementing the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103–318);

''(B) acquiring or developing land;

''(C) constructing or equipping a highway, road, bridge, or facility;

''(D) carrying out other economic development activities; or

''(E) conducting research activities related to the activities described in subparagraphs (A) through (D).

''(3) 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).

''(4) REGION.—The term 'region' means the States of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

"SEC. 387B. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established the Northern Great Plains Regional Authority.

''(2) COMPOSITION.—The Authority shall be composed of—

''(A) a Federal member, to be appointed by the President, by and with the advice and consent of the Senate;

''(B) the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority; and

''(C) a member of an Indian tribe, who shall be a chairperson of an Indian tribe in the region or a designee of such a chairperson, to be appointed by the President, by and with the advice and consent of the Senate.

''(3) COCHAIRPERSONS.—The Authority shall be headed by—

''(A) the Federal member, who shall serve—

''(i) as the Federal cochairperson; and

''(ii) as a liaison between the Federal Government and the Authority;

''(B) a State cochairperson, who—

''(i) shall be a Governor of a participating State in the region; and

''(ii) shall be elected by the State members for a term of not less than 1 year; and

''(C) the member of an Indian tribe, who shall serve—

''(i) as the tribal cochairperson; and

''(ii) as a liaison between the governments of Indian tribes in the region and the Authority.

''(b) ALTERNATE MEMBERS.—

''(1) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal cochairperson.

''(2) STATE ALTERNATES.—

''(A) IN GENERAL.—The State member of a participating State may have a single alternate, who shall be—

''(i) a resident of that State; and

''(ii) appointed by the Governor of the State.

''(B) QUORUM.—A State alternate member shall not be counted toward the establishment of a quorum of the members of the Authority in any case in which a quorum of the State members is required to be present.

''(3) ALTERNATE TRIBAL COCHAIRPERSON.—The President shall appoint an alternate tribal cochairperson, by and with the advice and consent of the Senate.

''(4) DELEGATION OF POWER.—No power or responsibility of the Authority specified in paragraphs (2) and (3) of subsection (c), and no voting right of any member of the Authority, shall be delegated to any person who is not—

''(A) a member of the Authority; or

''(B) entitled to vote in Authority meetings.

''(c) VOTING.—

''(1) IN GENERAL.—A decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(D)) to be effective.

''(2) QUORUM.—A quorum of State members shall be required to be present for the Authority to make any policy decision, including—

''(A) a modification or revision of an Authority policy decision;

''(B) approval of a State or regional development plan; and

''(C) any allocation of funds among the States.

''(3) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals shall be—

''(A) a responsibility of the Authority; and

''(B) conducted in accordance with section 387I.

''(4) VOTING BY ALTERNATE MEMBERS.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal, State, or Indian tribe member for whom the alternate member is an alternate.

''(d) DUTIES.—The Authority shall—

''(1) develop, on a continuing basis, comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic development of the region, giving due consideration to other Federal, State, tribal, and local planning and development activities in the region;

''(2) not later than 220 days after the date of enactment of this subtitle, establish priorities in a development plan for the region (including 5-year regional outcome targets);

''(3) assess the needs and assets of the region based on available research, demonstrations, investigations, assessments, and evaluations of the region prepared by Federal, State, tribal, and local agencies, universities, local development districts, and other nonprofit groups;

''(4) formulate and recommend to the Governors and legislatures of States that participate in the Authority forms of interstate cooperation;

''(5) work with State, tribal, and local agencies in developing appropriate model legislation;

''(6)(A) enhance the capacity of, and provide support for, local development districts in the region; or

''(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

''(7) encourage private investment in industrial, commercial, and other economic development projects in the region; and

''(8) cooperate with and assist State governments with economic development programs of participating States.

''(e) ADMINISTRATION.—In carrying out subsection (d), the Authority may—

''(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Authority as the Authority considers appropriate;

''(2) authorize, through the Federal, State, or tribal cochairperson or any other member of the Authority designated by the Authority, the administration of oaths if the Authority determines that testimony should be taken or evidence received under oath;

''(3) request from any Federal, State, tribal, or local agency such information as may be available to or procurable by the agency that may be of use to the Authority in carrying out the duties of the Authority;

''(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties of the Authority;

''(5) request the head of any Federal agency to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

''(6) request the head of any State agency, tribal government, or local government to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

''(7) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

''(A) making arrangements or entering into contracts with any participating State government or tribal government; or

''(B) otherwise providing retirement and other employee benefit coverage;

''(8) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

''(9) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out Authority duties, including any contracts, leases, or cooperative agreements with—

''(A) any department, agency, or instrumentality of the United States;

''(B) any State (including a political subdivision, agency, or instrumentality of the State);

''(C) any Indian tribe in the region; or

''(D) any person, firm, association, or corporation; and

''(10) establish and maintain a central office and field offices at such locations as the Authority may select.

''(f) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

''(1) cooperate with the Authority; and

''(2) provide, on request of the Federal cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

''(g) ADMINISTRATIVE EXPENSES.—

''(1) FEDERAL SHARE.—The Federal share of the administrative expenses of the Authority shall be—

''(A) for fiscal year 2002, 100 percent;

''(B) for fiscal year 2003, 75 percent; and

''(C) for fiscal year 2004 and each fiscal year thereafter, 50 percent.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—The non-Federal share of the administrative expenses of the Authority shall be paid by non-Federal sources in the States that participate in the Authority.

''(B) SHARE PAID BY EACH STATE.—The share of administrative expenses of the Authority to be paid by non-Federal sources in each State shall be determined by the Authority.

''(C) NO FEDERAL PARTICIPATION.—The Federal cochairperson shall not participate or vote in any decision under subparagraph (B).

''(D) DELINQUENT STATES.—If a State is delinquent in payment of the State's share of administrative expenses of the Authority under this subsection—

''(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State); and

''(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

''(h) COMPENSATION.—

''(1) FEDERAL AND TRIBAL COCHAIRPERSONS.—The Federal cochairperson and the tribal cochairperson shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

''(2) ALTERNATE FEDERAL AND TRIBAL COCHAIRPERSONS.—The alternate Federal cochairperson and the alternate tribal cochairperson—

''(A) shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level V of the Executive Schedule described in paragraph (1); and

''(B) when not actively serving as an alternate, shall perform such functions and duties as are delegated by the Federal cochairperson or the tribal cochairperson, respectively.

''(3) STATE MEMBERS AND ALTERNATES.—

''(A) IN GENERAL.—A State shall compensate each member and alternate representing the State on the Authority at the rate established by State law.

''(B) NO ADDITIONAL COMPENSATION.—No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary from any source other than the State for services provided by the member or alternate member to the Authority.

''(4) DETAILED EMPLOYEES.—

''(A) IN GENERAL.—No person detailed to serve the Authority under subsection (e)(6) shall receive any salary or any contribution to or supplementation of salary for services provided to the Authority from—

''(i) any source other than the State, tribal, local, or intergovernmental agency from which the person was detailed; or

''(ii) the Authority.

''(B) VIOLATION.—Any person that violates this paragraph shall be fined not more than $5,000, imprisoned not more than 1 year, or both.

''(C) APPLICABLE LAW.—The Federal cochairperson, the alternate Federal cochairperson, and any Federal officer or employee detailed to duty on the Authority under subsection (e)(5) shall not be subject to subparagraph (A), but shall remain subject to sections 202 through 209 of title 18, United States Code.

''(5) ADDITIONAL PERSONNEL.—

''(A) COMPENSATION.—

''(i) IN GENERAL.—The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

''(ii) EXCEPTION.—Compensation under clause (i) shall not exceed the maximum rate for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

''(B) EXECUTIVE DIRECTOR.—The executive director shall be responsible for—

''(i) the carrying out of the administrative duties of the Authority;

''(ii) direction of the Authority staff; and

''(iii) such other duties as the Authority may assign.

''(C) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (e)(5)) shall be considered to be a Federal employee for any purpose.

''(i) CONFLICTS OF INTEREST.—

''(1) IN GENERAL.—Except as provided under paragraph (2), no State member, Indian tribe member, State alternate, officer, or employee of the Authority shall participate personally and substantially as a member, alternate, officer, or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which, to knowledge of the member, alternate, officer, or employee—

''(A) the member, alternate, officer, or employee;

''(B) the spouse, minor child, partner, or organization (other than a State or political subdivision of the State or the Indian tribe) of the member, alternate, officer, or employee, in which the member, alternate, officer, or employee is serving as officer, director, trustee, partner, or employee; or

''(C) any person or organization with whom the member, alternate, officer, or employee is negotiating or has any arrangement concerning prospective employment;

has a financial interest.

''(2) DISCLOSURE.—Paragraph (1) shall not apply if the State member, Indian tribe member, alternate, officer, or employee—

''(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

''(B) makes full disclosure of the financial interest; and

''(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, Indian tribe member, alternate, officer, or employee.

''(3) VIOLATION.—Any person that violates this subsection shall be fined not more than $10,000, imprisoned not more than 2 years, or both.

''(j) VALIDITY OF CONTRACTS, LOANS, AND GRANTS.—The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of any provision under subsection (h)(4) or subsection (i) of this subtitle, or sections 202 through 209 of title 18, United States Code.

''SEC. 387C. ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.

''(a) IN GENERAL.—The Authority may approve grants to States, Indian tribes, local

governments, and public and nonprofit organizations for projects, approved in accordance with section 387I—

''(1) to develop the transportation and telecommunication infrastructure of the region for the purpose of facilitating economic development in the region (except that grants for this purpose may be made only to States, Indian tribes, local governments, and nonprofit organizations);

''(2) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies;

''(3) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for improving basic public services;

''(4) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for equipping industrial parks and related facilities; and

''(5) to otherwise achieve the purposes of this subtitle.

''(b) FUNDING.—

''(1) IN GENERAL.—Funds for grants under subsection (a) may be provided—

''(A) entirely from appropriations to carry out this section;

''(B) in combination with funds available under another Federal grant program; or

''(C) from any other source.

''(2) PRIORITY OF FUNDING.—To best build the foundations for long-term economic development and to complement other Federal, State, and tribal resources in the region, Federal funds available under this subtitle shall be focused on the activities in the following order or priority:

''(A) Basic public infrastructure in distressed counties and isolated areas of distress.

''(B) Transportation and telecommunication infrastructure for the purpose of facilitating economic development in the region.

''(C) Business development, with emphasis on entrepreneurship.

''(D) Job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

''(3) FEDERAL SHARE IN GRANT PROGRAMS.—Notwithstanding any provision of law limiting the Federal share in any grant program, funds appropriated to carry out this section may be used to increase a Federal share in a grant program, as the Authority determines appropriate.

''SEC. 387D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

''(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

''(1) they lack the economic resources to provide the required matching share; or

''(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

''(b) FEDERAL GRANT PROGRAM FUNDING.—Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations, under any Federal grant program, and in accordance with subsection (c), the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region, may—

''(1) increase the Federal share of the costs of a project under any Federal grant program to not more than 90 percent (except as provided in section 387F(b)); and

''(2) use amounts made available to carry out this subtitle to pay all or a portion of the increased Federal share.

''(c) CERTIFICATIONS.—

''(1) IN GENERAL.—In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

''(A) meets (except as provided in subsection (b)) the applicable requirements of the applicable Federal grant program; and

''(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

''(2) CERTIFICATION BY AUTHORITY.—

''(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 387I—

''(i) shall be controlling; and

''(ii) shall be accepted by the Federal agencies.

''(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.

''SEC. 387E. LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.

''(a) DEFINITION OF LOCAL DEVELOPMENT DISTRICT.—In this section, the term 'local development district' means an entity—

''(1) that—

''(A) is a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

''(B) is—

''(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

''(ii) governed by a policy board with at least a simple majority of members consisting of—

''(I) elected officials or employees of a general purpose unit of local government who have been appointed to represent the government; or

''(II) individuals appointed by the general purpose unit of local government to represent the government;

''(iii) certified to the Authority as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region—

''(I) by the Governor of each State in which the entity is located; or

''(II) by the State officer designated by the appropriate State law to make the certification; and

''(iv)(I) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

''(II) a nonprofit agency or instrumentality of a State or local government;

''(III) a public organization established before the date of enactment of this subtitle under State law for creation of multi-jurisdictional, area-wide planning organizations; or

''(IV) a nonprofit association or combination of bodies, agencies, and instrumentalities described in subclauses (I) through (III); and

''(2) that has not, as certified by the Federal cochairperson—

''(A) inappropriately used Federal grant funds from any Federal source; or

''(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

''(b) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

''(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section.

''(2) CONDITIONS FOR GRANTS.—

''(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the local development district receiving the grant.

''(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded to a State agency certified as a local development district for a period greater than 3 years.

''(C) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

''(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

''(1) operate as a lead organization serving multicounty areas in the region at the local level; and

''(2) serve as a liaison between State, tribal, and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens that—

''(A) are involved in multijurisdictional planning;

''(B) provide technical assistance to local jurisdictions and potential grantees; and

''(C) provide leadership and civic development assistance.

''(d) NORTHERN GREAT PLAINS INC.—Northern Great Plains Inc., a nonprofit corporation incorporated in the State of Minnesota to implement the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103–318)—

''(1) shall serve as an independent, primary resource for the Authority on issues of concern to the region;

''(2) shall advise the Authority on development of international trade;

''(3) may provide research, education, training, and other support to the Authority; and

''(4) may carry out other activities on its own behalf or on behalf of other entities.

''SEC. 387F. DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.

''(a) DESIGNATIONS.—Not later than 90 days after the date of enactment of this subtitle, and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

''(1) as distressed counties, counties in the region that are the most severely and persistently distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration;

''(2) as nondistressed counties, counties in the region that are not designated as distressed counties under paragraph (1); and

''(3) as isolated areas of distress, areas located in nondistressed counties (as designated under paragraph (2)) that have high rates of poverty, unemployment, or outmigration.

''(b) DISTRESSED COUNTIES.—

''(1) IN GENERAL.—The Authority shall allocate at least 75 percent of the appropriations made available under section 387M for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

''(2) FUNDING LIMITATIONS.—The funding limitations under section 387D(b) shall not apply to a project to provide transportation or telecommunication or basic public services to residents of 1 or more distressed counties or isolated areas of distress in the region.

''(c) NONDISTRESSED COUNTIES.—

''(1) IN GENERAL.—Except as provided in this subsection, no funds shall be provided under this subtitle for a project located in a county designated as a nondistressed county under subsection (a)(2).

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 387E(b).

''(B) MULTICOUNTY PROJECTS.—The Authority may waive the application of the funding prohibition under paragraph (1) to—

''(i) a multicounty project that includes participation by a nondistressed county; or

''(ii) any other type of project;

if the Authority determines that the project could bring significant benefits to areas of the region outside a nondistressed county.

''(C) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress for assistance to be effective, the designation shall be supported—

''(i) by the most recent Federal data available; or

''(ii) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

''(d) TRANSPORTATION, TELECOMMUNICATION, AND BASIC PUBLIC INFRASTRUCTURE.—The Authority shall allocate at least 50 percent of any funds made available under section 387M for transportation, telecommunication, and basic public infrastructure projects authorized under paragraphs (1) and (3) of section 387C(a).

''SEC. 387G. DEVELOPMENT PLANNING PROCESS.

''(a) STATE DEVELOPMENT PLAN.—In accordance with policies established by the Authority, each State member shall submit a development plan for the area of the region represented by the State member.

''(b) CONTENT OF PLAN.—A State development plan submitted under subsection (a) shall reflect the goals, objectives, and priorities identified in the regional development plan developed under section 387B(d)(2).

''(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State may—

''(1) consult with—

''(A) local development districts; and

''(B) local units of government; and

''(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

''(d) PUBLIC PARTICIPATION.—

''(1) IN GENERAL.—The Authority and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

''(2) REGULATIONS.—The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

''SEC. 387H. PROGRAM DEVELOPMENT CRITERIA.

''(a) IN GENERAL.—In considering programs and projects to be provided assistance under this subtitle, and in establishing a priority ranking of the requests for assistance provided to the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

''(1) the relationship of the project or class of projects to overall regional development;

''(2) the per capita income and poverty and unemployment and outmigration rates in an area;

''(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

''(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

''(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

''(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

''(b) NO RELOCATION ASSISTANCE.—No financial assistance authorized by this subtitle shall be used to assist a person or entity in relocating from one area to another, except that financial assistance may be used as otherwise authorized by this title to attract businesses from outside the region to the region.

''(c) MAINTENANCE OF EFFORT.—Funds may be provided for a program or project in a State under this subtitle only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this subtitle.

''SEC. 387I. APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.

''(a) IN GENERAL.—A State or regional development plan or any multistate subregional plan that is proposed for development under this subtitle shall be reviewed by the Authority.

''(b) EVALUATION BY STATE MEMBER.—An application for a grant or any other assistance for a project under this subtitle shall be made through and evaluated for approval by the State member of the Authority representing the applicant.

''(c) CERTIFICATION.—An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

''(1) describes ways in which the project complies with any applicable State development plan;

''(2) meets applicable criteria under section 387H;

''(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

''(4) otherwise meets the requirements of this subtitle.

''(d) VOTES FOR DECISIONS.—On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 387B(c) shall be required for approval of the application.

''SEC. 387J. CONSENT OF STATES.

''Nothing in this subtitle requires any State to engage in or accept any program under this subtitle without the consent of the State.

''SEC. 387K. RECORDS.

''(a) RECORDS OF THE AUTHORITY.—

''(1) IN GENERAL.—The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

''(2) AVAILABILITY.—All records of the Authority shall be available for audit and examination by the Comptroller General of the United States and the Inspector General of the Department of Agriculture (including authorized representatives of the Comptroller General and the Inspector General of the Department of Agriculture).

''(b) RECORDS OF RECIPIENTS OF FEDERAL ASSISTANCE.—

''(1) IN GENERAL.—A recipient of Federal funds under this subtitle shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report to the Authority on the transactions and activities to the Authority.

''(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States, the Inspector General of the Department of Agriculture, and the Authority (including authorized representatives of the Comptroller General, the Inspector General of the Department of Agriculture, and the Authority).

''(c) ANNUAL AUDIT.—The Inspector General of the Department of Agriculture shall audit the activities, transactions, and records of the Authority on an annual basis.

''SEC. 387L. ANNUAL REPORT.

''Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subtitle.

''SEC. 387M. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to the Authority to carry out this subtitle $30,000,000 for each of fiscal years 2002 through 2006, to remain available until expended.

''(b) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount appropriated under subsection (a) for a fiscal year shall be used for administrative expenses of the Authority.

''(c) MINIMUM STATE SHARE OF GRANTS.—Notwithstanding any other provision of this subtitle, for any fiscal year, the aggregate amount of grants received by a State and all persons or entities in the State under this subtitle shall be not less than ⅓ of the product obtained by multiplying—

''(1) the aggregate amount of grants under this subtitle for the fiscal year; and

''(2) the ratio that—

''(A) the population of the State (as determined by the Secretary of Commerce based on the most recent decennial census for which data are available); bears to

''(B) the population of the region (as so determined).

''SEC. 387N. TERMINATION OF AUTHORITY.

''The authority provided by this subtitle terminates effective October 1, 2006.''.

On page 711, strike lines 17 through 25.

On page 716, strike lines 18 through 22.

On page 716, line 23, strike ''(c)'' and insert ''(b)''.

On page 737, lines 17 and 18, strike ''(including land and facilities at 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 the goals of which include—

''(1) formation of interdisciplinary teams to review or conduct research on the environmental effects of the release of new genetically modified agricultural products;

''(2) conduct of studies relating to biosafety of genetically modified agricultural products;

''(3) evaluation of the cost and benefit for development of an identity preservation system for genetically modified agricultural products;

''(4) establishment of international partnerships for research and education on biosafety issues; or

''(5) formation of interdisciplinary teams to renew and conduct research on the nutritional enhancement and environmental benefits of genetically modified agricultural products.''; and

(3) in subsection (h) (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 756, between lines 15 and 16, insert the following:

SEC. 7___. 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;

(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, adapt, adopt, and use electronic commerce business practices and technologies.

(b) PURPOSE.—The purpose of this section is to establish within the Cooperative State Research, Education, and Extension Service of the Department of Agriculture a rural electronic commerce extension program for small businesses and microenterprises in rural areas of the United States.

(c) PROGRAM.—Subtitle H of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921 et seq.) is amended by adding after section 1669 the following:

''SEC. 1670. RURAL ELECTRONIC COMMERCE EXTENSION PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) DEVELOPMENT CENTER.—The term 'development center' means—

''(A) the North Central Regional Center for Rural Development;

''(B) the Northeast Regional Center for Rural Development or its designee;

''(C) the Southern Rural Development Center; and

''(D) the Western Rural Development Center or its designee.

''(2) EXTENSION PROGRAM.—The term 'extension program' means the rural electronic commerce extension program established under subsection (b).

''(3) MICROENTERPRISE.—The term 'microenterprise' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Administrator of the Cooperative State Research, Education, and Extension Service.

''(5) SMALL BUSINESS.—The term 'small business' has the meaning given the term 'small-business concern' by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

''(b) ESTABLISHMENT.—The Secretary shall establish a rural electronic commerce extension program to—

''(1) expand and enhance electronic commerce practices and technology to be used by small businesses and microenterprises in rural areas;

''(2) disseminate information and expertise through a cooperative extension service clearinghouse system in rural areas;

''(3) disseminate management, scientific, engineering, and technical information to small businesses in rural areas through the extension program; and

''(4) use, when appropriate, the expertise, technology, and capabilities of other institutions and organizations, including—

''(A) State and local governments;

''(B) Federal departments and agencies;

''(C) institutions of higher education;

''(D) nonprofit organizations;

''(E) small businesses and microenterprises that have experience in electronic commerce practice and technology; and

''(F) the development centers.

''(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 designed 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, technology transfer, training, education, 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 networks 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 assist small businesses and microenterprises in identifying, adapting, implementing, and using electronic commerce business practices and technologies.

''(2) ELIGIBILITY.—

''(A) CRITERIA.—

''(i) IN GENERAL.—The Secretary, shall—

''(I) establish criteria for the submission, evaluation, and funding of applications for grants to carry out projects and activities under the extension program; and

''(II) evaluate, rank, and select grant applications described in subclause (I) 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 the receipt of funds under this section, an applicant shall submit to the Secretary an application that meets the criteria established under subparagraph (A)(i)(I).

''(C) NON-FEDERAL SHARE.—

''(i) IN GENERAL.—As a condition of the 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 of the years 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 subclause (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 of the estimated capital and annual operating and maintenance costs of 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) CONSORTIA OF LAND-GRANT COLLEGES AND UNIVERSITIES.—With respect to a consortium of land-grant colleges and universities that receives funds under this section—

''(i) the total amount of the funds awarded to the consortium shall not exceed the product obtained by multiplying—

''(I) $900,000; by

''(II) the number of land-grant colleges and universities comprising the consortium; and

''(ii) each land-grant college or university that is a member of the consortium shall receive an equal percentage of the total amount of funds awarded.

''(4) SELECTION.—At least once every 180 days, the Secretary shall evaluate, prioritize, and fund applications for proposed projects and activities under the extension program using the criteria established under paragraph (2)(A)(i)(I).

''(e) EVALUATION.—

''(1) IN GENERAL.—Not later than 1 year after a project or activity under the extension program is funded by a grant under this section, the evaluation panel established under paragraph (2)(A) shall evaluate the project or activity.

''(2) EVALUATION PANEL.—

''(A) IN GENERAL.—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; and

''(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.

''(3) CRITERIA.—The evaluation panel shall evaluate projects and activities under the extension program using criteria established by the Secretary that assess the efficiency and efficacy of the extension program.

''(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.

''(f) 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—

''(1) the policies, practices, and procedures used to assist rural communities in efforts to adopt and use electronic commerce techniques;

''(2) 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

''(3) the criteria used for the submission, evaluation, and funding of projects and activities under the extension program.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(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 $20,000,000 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 2 percent of the funds made available under paragraph (1) to pay administrative costs incurred in carrying out this section.''.

On page 757, strike lines 15 through 18 and insert the following:

''(iv) rapid diagnostic techniques for animal disease agents considered to be risks for agricultural bioterrorism attack, including evaluation of the techniques.

On page 758, strike lines 6 through 12 and insert the following:

''(26) PROGRAM TO COMBAT CHILDHOOD OBESITY.—Research and extension grants may be made under this section to institutions of higher education with 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 resources to reduce the incidence of childhood obesity.

On page 760, line 13, strike the closing quotation marks and the following semicolon.

On page 760, between lines 13 and 14, insert the following:

''(29) DAIRY PIPELINE CLEANERS.—Research and extension grants may be made under this section for the purpose of preventing and eliminating the dangers of dairy pipeline cleaner, including—

''(A) developing safer packaging mechanisms and a new transfer mechanism, including a new pumping mechanism for dairy pipeline cleaner;

''(B) 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 structure; and

''(C) other means of improving efforts to prevent ingestion of dairy pipeline cleaner.

''(30) DEVELOPMENT OF PUBLICLY HELD PLANTS AND ANIMAL VARIETIES; GENETIC RESOURCE CONSERVATION ACTIVITIES.—Research and extension grants may be made under this section to colleges and universities, other Federal agencies, plant breeders, and other interested persons for the purpose of—

''(A) development of publicly held plants and animal varieties (including germplasm for identity-preserved markets); and

''(B) genetic resource conservation activities.'';

On page 760, line 16, after ''2006'', insert the following: '', of which not less than $100,000 for each of fiscal years 2002 through 2006 shall be used to carry out subsection (e)(29)''.

On page 761, strike lines 12 through 26 and insert the following:

(C) 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 commodities using advanced genomics, field trials, and other methods;

''(5) pursuing classical and marker-assisted breeding for publicly 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 764, strike lines 3 through 7 and insert the following:

SEC. 7___. PRECISION AGRICULTURE.

Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) in subparagraph (A), inserting ''or horticultural'' following ''agronomic''; and

(ii) in subparagraph (C), by striking ''or'' at the end;

(iii) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(iv) by adding at the end the following:

''(E) using such information to enable intelligent mechanized harvesting and sorting systems for horticultural crops.'';

(B) in paragraph (4)—

(i) in subparagraph (C), by striking ''or'' at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(E) robotic and other intelligent machines for use in horticultural cropping systems.''; and

(C) in paragraph (5)(F), by inserting ''(including improved use of energy inputs)'' after ''farm production efficiencies'';

(2) in subsection (c)(2)—

(A) by inserting ''or horticultural'' after ''agronomic''; and

(B) by striking ''and meteorological variability'' and inserting ''product variability, and meteorological variability'';

(3) in subsection (d)—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

''(4) Improve farm energy use efficiencies.''; and

(4) in subsection (i)(1), by striking ''2002'' and inserting ''2006''.

On page 765, between lines 20 and 21, insert the following:

SEC. 7___. BOVINE JOHNE'S 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 JOHNE'S 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 Johne's disease in livestock.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 through 2006.''.

SEC. 7___. GRANTS FOR YOUTH ORGANIZATIONS.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) (as amended by section 7___) is amended by adding at the end the following:

"SEC. 410. GRANTS FOR YOUTH ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Cooperative State Research, Education, and Extension Service, shall make grants to the Girl Scouts of the United States of America, the Boy Scouts of America, the National 4-H Council, and the National FFA Organization to establish pilot projects to expand the programs carried out by the organizations in rural areas and small towns (including, with respect to the National 4-H Council, activities provided for in Public Law 107–19 (115 Stat. 153)).

''(6) Of the funds of the Commodity Credit Corporation, the Secretary shall make available $8 million for fiscal year 2002, which shall remain available until expended.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2003 through 2006.''.

SEC. 7___. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) (as amended by section 7___) is amended by adding at the end the following:

"SEC. 411. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) an institution of higher education;

''(B) a nonprofit organization; or

''(C) a consortium of for-profit institutions and agricultural research institutions.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means—

''(A) a historically black land-grant college or university;

''(B) a Hispanic-serving institution (as defined in section 1404 of the National, Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)); or

''(C) a tribal college or university that offers a curriculum in agriculture or the biosciences.

''(b) GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary (acting through the Foreign Agricultural Service) shall establish and administer a program to make competitive grants to eligible entities to develop agricultural biotechnology for developing countries.

''(2) USE OF FUNDS.—Funds provided to an eligible entity under this section may be used for projects that use biotechnology to—

''(A) enhance the nutritional content of agricultural products that can be grown in developing countries;

''(B) increase the yield and safety of agricultural products that can be grown in developing countries;

''(C) increase the yield of agricultural products that are drought- and stress-resistant and that can be grown in developing countries;

''(D) extend the growing range of crops that can be grown in developing countries;

''(E) enhance the shelf-life of fruits and vegetables grown in developing countries;

''(F) develop environmentally sustainable agricultural products that can be grown in developing countries; and

''(G) develop vaccines to immunize against life-threatening illnesses and other medications that can be administered by consuming genetically-engineered agricultural products.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2006.''.

On page 778, strike line 6 and insert the following:

''(8) Chief Dull Knife Memorial College.

On page 784, strike lines 20 through 25 and insert the following:

SEC. 7___. NATIONAL RESEARCH AND TRAINING VIRTUAL CENTERS.

(a) AUTHORIZATION.—Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking ''2002'' each place it appears in subsections (a)(1) and (f) and inserting ''2006''.

(b) REDESIGNATION.—Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended—

(1) in the section heading, by striking ''centennial'' and inserting ''virtual''; and

(2) by striking ''centennial'' each place it appears and inserting ''virtual''.

On page 797, between lines 4 and 5, insert the following:

SEC. 7___. CARBON CYCLE RESEARCH.

Section 221 of the Agricultural Risk Protection Act of 2000 (114 Stat. 407) is amended—

(1) in subsection (a), by striking ''Of the amount'' and all that follows through ''to provide'' and inserting ''To the extent that funds are made available for the purpose, the Secretary shall provide'';

(2) in subsection (d), by striking ''under subsection (a)'' and inserting ''to carry out this section''; and

(3) by adding at the end the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2002 through 2006 such sums as are necessary to carry out this section.''.

On page 804, line 3, after ''State,'', insert ''tribal,''.

On page 804, line 7, strike ''Federal or State'' and insert ''Federal, State, or tribal''.

On page 808, line 1, strike ''State, and'' and insert ''State, tribal, and''.

On page 813, lines 1 and 2, insert ''public sector development of new crops and crop varieties,'' after ''systems,''.

On page 813, line 23, insert ''(as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))'' after ''institution''.

Beginning on page 815, strike line 16 and all that follows through page 816, line 3, and insert the following:

SEC. 7___. ORGANICALLY PRODUCED PRODUCT RESEARCH AND EDUCATION.

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 under 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 the use by those professionals of,'' and insert ''Agriculture Library) and the Economic Research Service, shall facilitate access by research and extension professionals, farmers, and other interested persons in the United States to, and the use by those persons of,''.

On page 816, between lines 11 and 12, insert the following:

SEC. 7___. REPORT ON PRODUCERS AND HANDLERS OF ORGANIC AGRICULTURAL PRODUCTS.

Not later than 1 year after funds are made available to carry out this section, the Secretary of Agriculture shall submit to Congress a report that—

(1) describes—

(A) the extent to which producers and handlers of organic agricultural products are contributing to research and promotion programs of the Department of Agriculture;

(B) the extent to which producers and handlers of organic agricultural products are surveyed for ideas for research and promotion;

(C) ways in which the programs reflect the contributions made by producers and handlers of organic agricultural products and directly benefit the producers and handlers; and

(D) the implementation of initiatives that directly benefit organic producers and handlers; and

(2) evaluates industry and other proposals for improving the treatment of certified organic agricultural products under Federal marketing orders, including proposals to target additional resources for research and promotion of organic products and to differentiate between certified organic and other products in new or existing volume limitations or other orderly marketing requirements.

On page 837, between lines 14 and 15, insert the following:

SEC. 8___. FOREST LEGACY PROGRAM.

Section 7(l) of the Cooperative Forestry Management Act of 1978 (16 U.S.C. 2103c(l)) is amended by adding at the end the following:

''(3) STATE AUTHORIZATION.—Notwithstanding any other provision of this Act, a State may 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 (i), (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.''.

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. 8___. WILDFIRE PREVENTION AND HAZARDOUS FUEL PURCHASE PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) the damage caused by wildfire disasters 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 approximately 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 disease, 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 would—

(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 habitat;

(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, township, municipality, or other similar 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 forestry, 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) the safety of wildlife; or

(III) in the case of a wildfire, the safety of firefighters, other individuals, and communities; and

(B) any 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 (as defined 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) in the case of wildfire, the safety of firefighters, other individuals, and communities.

(5) 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).

(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 Wildfires on Communities and the Environment'' and dated September 8, 2000.

(7) PERSON.—The term ''person'' includes—

(A) a community;

(B) an Indian tribe;

(C) a small business, microbusiness, or other business that is incorporated in the United States; and

(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).

(B) LIMITATION ON INDIVIDUAL GRANTS.—

(i) IN GENERAL.—Except as provided in clause (ii), a grant under subparagraph (A) shall not exceed $1,500,000 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 production of 5 megawatts or less shall not be subject to the limitation under clause (i).

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—

(A) IN GENERAL.—As a condition of receipt of a grant under this subsection, a grant recipient shall keep such records as the Secretary may require, including records that—

(i) completely and accurately disclose the use of grant funds; and

(ii) describe all transactions involved in the purchase of hazardous fuels derived from forest land.

(B) ACCESS.—On notice by the Secretary, the operator of a biomass-to-energy facility that purchases or uses hazardous fuels with funds from a grant under this subsection shall provide the Secretary with—

(i) reasonable access to the biomass-to-energy facility; and

(ii) an opportunity to examine the inventory and records of the biomass-to-energy facility.

(4) MONITORING OF EFFECT OF TREATMENTS.—

(A) IN GENERAL.—To determine and document the environmental impact of hazardous fuel removal, the Secretary shall monitor—

(i) environmental impacts of activities carried out under this subsection; and

(ii) Federal land from which hazardous fuels are removed and sold to a biomass-to-energy facility under this subsection.

(B) EMPLOYMENT.—

(i) IN GENERAL.—The Comptroller General of the United States shall monitor—

(I) the number of jobs created in or near eligible communities as a result of the implementation of this subsection;

(II) the opportunities created for small businesses and microbusinesses as a result of the implementation of this subsection;

(III) the types and amounts of energy supplies created as a result of the implementation of this subsection; and

(IV) energy prices for eligible communities.

(ii) REPORT.—Beginning in fiscal year 2003, the Comptroller General of the United States shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources and the Committee on Agriculture of the House of Representatives an annual report that describes the information obtained through monitoring under clause (i).

(5) REVIEW AND REPORT.—

(A) IN GENERAL.—Not later than September 30, 2004, the Comptroller General shall submit to each of the committees described in paragraph (4)(B)(ii) a report that describes the results and effectiveness of the pilot program.

(B) REPORTS BY SECRETARY.—The Secretary shall submit to each of the committees described in paragraph (4)(B)(ii) an annual report describing the results of the pilot program that includes—

(i) an identification of the size of each biomass-to-energy facility that receives a grant under this section; and

(ii) the haul radius associated with each grant.

(C) TECHNICAL FEASIBILITY REPORT.—Not later than December 1, 2003, the Secretary of Agriculture, in cooperation with the Forest Products Lab and the Economic Action Program of the Forest Service, shall submit to each of the committees described in paragraph (4)(B)(ii) a report that describes—

(i) the technical feasibility of the use by small-scale biomass energy units of small-diameter trees and forest residues as a source of fuel;

(ii) the environmental impacts relating to the use of small-diameter trees and forest residues as described in clause (i); and

(iii) 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 demonstrable level of anticipated benefits to rural communities, including opportunities for small businesses and micro-businesses 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 monitoring provisions described in paragraph (3) and applicable to biomass-to-energy facilities shall apply; and

(ii) the Secretary shall monitor the environmental impacts of projects funded by grants provided under this paragraph.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2002 through 2006.

(d) LONG-TERM FOREST STEWARDSHIP CONTRACTS FOR HAZARDOUS FUELS REMOVAL.—

(1) ANNUAL ASSESSMENT OF TREATMENT ACREAGE.—

(A) IN GENERAL.—Subject to the availability of appropriations, not later than March 1 of each of fiscal years 2002 through 2006, the Secretary shall submit to Congress an assessment of the number of acres of National Forest System land recommended to be treated during the subsequent fiscal year using stewardship end result contracts authorized by paragraph (3).

(B) 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) updates 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 treatments;

(v) describe the land allocation categories in which the contract authorities shall be used; and

(vi) give priority to areas described in subsection (b)(4)(A).

(2) FUNDING RECOMMENDATION.—The Secretary shall include in the annual assessment under paragraph (1) a request for funds sufficient to implement the recommendations contained in the assessment using stewardship end result contracts described in paragraph (3) in any case in which the Secretary determines that the objectives of the National Fire Plan would best be accomplished through forest stewardship end result contracting.

(3) STEWARDSHIP END RESULT CONTRACTING.—

(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 Fire Plan on National Forest System land based on the treatment schedules provided in the annual assessments conducted under paragraph (1)(B)(i).

(B) PERIOD 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 (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 this paragraph, except that 14 of the 28 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 347(c)(3)(A) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (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.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2002 through 2006.

(e) EXCLUDED AREAS.—In carrying out this section, the Secretary shall—

(1) because of sensitivity of natural, cultural, or historical resources, designate areas to be excluded from any program under this section; and

(2) 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. 809. CHESAPEAKE BAY WATERSHED FORESTRY PROGRAM.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 9 (16 U.S.C. 2105) the following:

''SEC. 9A. CHESAPEAKE BAY WATERSHED FORESTRY PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) AGREEMENT.—The term 'Agreement' means the Chesapeake 2000 Agreement, an interstate agreement the purpose of which is to correct the nutrient-related problems in the Chesapeake Bay by 2010.

''(2) BAY-AREA STATE.—

''(A) IN GENERAL.—The term 'Bay-area State' means a State any part of which is located in the watershed of the Chesapeake Bay.

''(B) INCLUSION.—The term 'Bay-area State' includes the District of Columbia.

''(3) CHESAPEAKE BAY EXECUTIVE COUNCIL.—The term 'Council' means the Chesapeake Bay Executive Council.

''(4) DIRECTOR.—The term 'Director' means the Director of Chesapeake Bay watershed forestry efforts designated under subsection (b)(2)(A).

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) the government of a Bay-area State (or a political subdivision); and

''(B) an organization such as an educational institution or a community or conservation organization.

''(6) ELIGIBLE PROJECT.—The term 'eligible project' means a project the purpose of which is to—

''(A) improve wildlife habitat and water quality through the establishment, protection, and stewardship of riparian and wetland forests;

''(B) improve the capacity of a State or nonprofit organization to implement forest conservation, restoration, and stewardship actions;

''(C) develop and implement a watershed management plan that addresses forest conservation and restoration actions;

''(D) provide outreach and assistance to private landowners and communities to restore or protect watersheds through the enhancement of forests;

''(E) develop and implement communication, education, or technology transfer programs that broaden public understanding of the value of trees and forests and management of trees and forests in sustaining and restoring watershed health; and

''(F) conduct applied research, inventory, assessment, or monitoring activities.

''(7) PROGRAM.—The term 'program' means the Chesapeake Bay watershed forestry program established under subsection (b)(1).

''(8) 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 the Chesapeake Bay watershed forestry program to provide technical and financial assistance to the Council, Bay-area States, local governments, and nonprofit organizations to carry out eligible projects.

''(2) DIRECTOR.—

''(A) IN GENERAL.—The Secretary shall designate an employee of the Forest Service to serve as the Director for Chesapeake Bay watershed forestry efforts.

''(B) DUTIES.—The Director shall work in cooperation with the Secretary to carry out the purposes of the program described in paragraph (1).

''(c) CHESAPEAKE WATERSHED FORESTRY GRANTS.—

''(1) IN GENERAL.—In carrying out the program, the Secretary, in coordination with the Director, may provide grants to assist eligible entities in carrying out eligible projects.

''(2) COST SHARING.—The amount of a grant awarded under this subsection shall not exceed 75 percent of the total cost of the eligible project.

''(3) ADDITIONAL REQUIREMENTS.—The Secretary, in consultation with the Director, may prescribe any requirements and procedures necessary to carry out this subsection.

''(d) CHESAPEAKE WATERSHED FOREST ASSESSMENT AND CONSERVATION STUDY.—

''(1) IN GENERAL.—The Director, in cooperation with the Council, shall conduct a Chesapeake Bay watershed forestry research and assessment study that—

''(A) assesses the extent and location of forest loss and fragmentation;

''(B) identifies critical forest land that should be protected to achieve the purposes of the Agreement;

''(C) prioritizes afforestation needs;

''(D) recommends—

''(i) management strategies based on actions carried out and information obtained under subparagraphs (A) through (C) to expand conservation and stewardship of the forest ecosystem in the Chesapeake Bay watershed; and

''(ii) ways in which the Federal Government can work with State, county, local, and private entities to conserve critical forests, including recommendations on the feasibility of establishing new units of the National Forest System; and

''(E) identifies further inventory, assessment, and research needed to achieve the purposes of the Agreement.

''(2) REPORT.—Not later than 2 years after the date of enactment of this section, the Director shall submit to Congress a comprehensive report on the results of the study under paragraph (1).

''(e) CHESAPEAKE BAY URBAN WATERSHED FORESTRY RESEARCH COOPERATIVE PROGRAM.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Director, may establish a comprehensive Chesapeake Bay urban watershed forestry research cooperative program to provide technical and financial assistance to eligible entities.

''(2) PURPOSES.—The purposes of the cooperative program shall be—

''(A) to meet the need of the urban population of the Chesapeake Bay watershed in managing forest land in urban and urbanizing areas through a combination of—

''(i) applied research;

''(ii) demonstration projects;

''(iii) implementation guidelines; and

''(iv) training and education;

''(B) to coalesce information from local managers, Federal, State, and private researchers, and state-of-the-art technology to answer critical urban forestry questions relating to air and water quality and watershed health; and

''(C) to provide a link between research and urban and community forestry policy, planning, and management.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $3,000,000 for fiscal year 2002; and

''(2) $3,500,000 for each of fiscal years 2003 through 2006.''.

SEC. 810. ENHANCED COMMUNITY FIRE PROTECTION.

On page 869, after line 24, add the following:

SEC. 8___. 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. 2103c) 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 under subsection (c)(1)(A)(ii) is eligible to receive a grant under subsection (c)(2).

''(2) 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).

''(3) PRIVATE FOREST LAND.—The term 'private forest land' means land that is—

''(A)(i) covered by trees; or

''(ii) suitable for growing trees, as determined by the Secretary;

''(B) suburban, as determined by the Secretary; and

''(C) owned by—

''(i) a private entity; or

''(ii) an Indian tribe.

''(4) PROGRAM.—The term 'program' means the Suburban and Community Forestry and Open Space Initiative established by subsection (b).

''(5) 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—

''(I) the appropriate State forester or equivalent State official; and

''(II) the planning office of the State or county in which the private forest land is located; and

''(ii) 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 provide justification for the request, that the requirement be waived.

''(B) APPLICATION; STEWARDSHIP PLAN.—An eligible entity that seeks to receive a grant under this section shall submit for approval—

''(i) to the Secretary, in such form as the Secretary shall prescribe, an application for the grant (including a description of any private forest land to be conserved using funds from the grant); and

''(ii) to the State forester or equivalent State official, a stewardship plan that describes the manner in which any private forest land to be conserved using funds from the grant will be managed in accordance with this section.

''(C) APPROVAL OR DISAPPROVAL.—

''(i) IN GENERAL.—Subject to clause (ii), as soon as practicable after the date on which the Secretary receives an application under subparagraph (B)(i) or a resubmission under subclause (II)(bb), the Secretary shall—

''(I)(aa) approve the application; and

''(bb) award a grant to the applicant; or

''(II)(aa) disapprove the application; and

''(bb) provide the applicant a statement that describes the reasons why the application was disapproved (including a deadline by which the applicant may resubmit the application).

''(ii) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applicants that propose to fund projects and activities that promote, in addition to the primary purposes of conserving private forest land and containing significant suburban sprawl—

''(I) the sustainable management of private forest land;

''(II) community and school education programs and curricula relating to sustainable forestry; and

''(III) community involvement in determining the objectives for projects or activities that are funded under this section.

''(3) COST SHARING.—

''(A) IN GENERAL.—The amount of a grant awarded under this section to carry out a project or activity shall not exceed 50 percent of the total cost of the project or activity.

''(B) ASSURANCES.—As a condition of receipt of a grant under this section, an eligible entity shall provide to the Secretary such assurances as the Secretary determines are sufficient to demonstrate that the share of the cost of each project or activity that is not funded by the grant awarded under this section has been secured.

''(C) FORM.—The share of the cost of carrying out any project or activity described in subparagraph (A) that is not funded by a grant awarded under this section may be provided in cash or in kind.

''(d) USE OF GRANT FUNDS FOR PURCHASES OF LAND OR EASEMENTS.—

''(1) PURCHASES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), funds made available, and grants awarded, under this section may be used to purchase private forest land or interests in private forest land (including conservation easements) only from willing sellers at fair market value.

''(B) SALES AT LESS THAN FAIR MARKET VALUE.—A sale of private forest land or an interest in private forest land at less than fair market value shall be permitted only on certification by the landowner that the sale is being entered into willingly and without coercion.

''(2) TITLE.—Title to private forest land or an interest in private forest land purchased under paragraph (1) may be held, as determined appropriate by the Secretary, by—

''(A) a State (including a political subdivision of a State); or

''(B) a nonprofit organization.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $50,000,000 for fiscal year 2003; and

''(2) such sums as are necessary for each fiscal year thereafter.''.

On page 871, between lines 22 and 23, insert the following:

SEC. 8___. USDA NATIONAL AGROFORESTRY CENTER.

(a) IN GENERAL.—Section 1243 of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101–624) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 1243. USDA NATIONAL AGROFORESTRY CENTER.'';

and

(2) in subsection (a)—

(A) by striking ''SEMIARID'' and inserting ''USDA NATIONAL''; and

(B) by striking ''Semiarid'' and inserting ''USDA National''.

(b) PROGRAM.—Section 1243(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101–624) is amended—

(1) by inserting ''the Institute of Tropical Forestry and the Institute of Pacific Islands

Forestry of the Forest Service,'' after ''entities,'';

(2) in paragraph (1), by striking ''on semiarid lands'';

(3) in paragraph (3), by striking ''from semiarid land'';

(4) by striking paragraph (4) and inserting the following:

''(4) collect information on the design and installation of forested riparian and upland buffers to—

''(A) protect water quality; and

''(B) manage water flow;'';

(5) in paragraphs (6) and (7), by striking ''on semiarid lands'' each place it appears;

(6) by striking paragraph (8) and inserting the following:

''(8) provide international leadership in the worldwide development and exchange of agroforestry practices;'';

(7) in paragraph (9), by striking ''on semiarid lands'';

(8) in paragraph (10), by striking ''and'' at the end;

(9) in paragraph (11), by striking the period at the end and inserting ''; and''; and

(10) by adding at the end the following:

''(12) quantify the carbon storage potential of agroforestry practices such as—

''(A) windbreaks;

''(B) forested riparian buffers;

''(C) silvopasture timber and grazing systems; and

''(D) alley cropping.''.

SEC. 8___. OFFICE OF TRIBAL RELATIONS.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 19 (16 U.S.C. 2113) the following:

''SEC. 19A. OFFICE OF TRIBAL RELATIONS.

''(a) DEFINITIONS.—In this section:

''(1) 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).

''(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 ensure, to the maximum extent practicable, that adequate staffing and funds are made available to enable the Director to carry out the duties described in subsection (c).

''(c) DUTIES OF THE DIRECTOR.—

''(1) IN GENERAL.—The Director shall—

''(A) provide advice 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 Indian tribes; and

''(ii) monitor the application of those policies and procedures throughout the administrative regions of the Forest Service;

''(D) provide such 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.

''(d) 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. 8___. 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 National Forest System land (including national forests and national grassland);

''(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 resources planning, management, and conservation on land under the jurisdiction of Indian tribes; and

''(4) the acquisition by Indian tribes, from willing sellers, of conservation interests (including conservation easements) in forest land and resources on land under the jurisdiction of the 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.

''(d) 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—

''(1) do not conflict with tribal programs provided under the authority of the Department of the Interior; and

''(2) meet the goals of the Indian tribes.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2002 and each fiscal year thereafter.''.

SEC. 8___. 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) very 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 transmittal, 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

(6) 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 from oak trees on public and private land.

(2) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under paragraph (1), the Secretary may—

(A) conduct open space, roadside, and aerial surveys;

(B) provide monitoring technique workshops;

(C) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(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, landscape ecology, 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 hazard 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 infected with sudden oak death syndrome;

(E) conduct national surveys and inspections of—

(i) commercial rhododendron and blueberry nurseries; and

(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.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden death oak syndrome.

(2) EDUCATION AND OUTREACH ACTIVITIES.—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, landscapers, naturists, firefighting personnel, 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.

(e) SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this subsection as the ''Committee'') to assist the Secretary in carrying out this section.

(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 individual, to be 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 appointment of a member of the Committee shall be made not later than 90 days after the date of enactment of this Act.

(C) 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.

(2) 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) INTERIM 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.

(f) 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.

SEC. 8___. INDEPENDENT INVESTIGATION OF FIREFIGHTER FATALITIES.

In the case of each fatality of an officer or employee of the Forest Service that occurs due to wildfire entrapment or burnover, the Inspector General of the Department of Agriculture shall—

(1) conduct an investigation that does not rely on, and is completely independent of, any investigation of the fatality that is conducted by the Forest Service; and

(2) submit to Congress and the Secretary of Agriculture a report on the fatality.

SEC. 8___. ADAPTIVE ECOSYSTEM RESTORATION OF ARIZONA AND NEW MEXICO FORESTS AND WOODLANDS.

(a) FINDINGS.—Congress finds that—

(1) fire suppression, logging, and overgrazing have degraded the ecological conditions of forests and woodlands in Arizona and New Mexico;

(2) some of those forests and woodlands contain unnaturally high quantities of biomass that are subject to large, high intensity wildfires that endanger human lives and livelihoods and ecological sustainability;

(3) degraded forests and woodlands have led to—

(A) declining biodiversity;

(B) decreased stream and spring flows;

(C) impaired watershed values;

(D) increased susceptibility to insects and diseases;

(E) increases in mortality in the oldest trees; and

(F) degraded habitats for wildlife and humans;

(4) healthy forest and woodland ecosystems—

(A) minimize the threat of unnatural wildfire;

(B) improve wildlife habitat;

(C) increase tree, grass, forb, and shrub productivity;

(D) enhance watershed values; and

(E) provide a basis for economically and environmentally sustainable uses;

(5) forest and woodland treatments intended to restore degraded ecosystems should be developed using the best available scientific knowledge;

(6) treatments not supported by sound science may fail to achieve long-term ecosystem health and resource restoration objectives;

(7)(A) scientific research must be integrated with ongoing land management activities; and

(B) restoration techniques must be continually reevaluated and adapted to reflect new knowledge and to meet the practical needs of land managers and communities developing and implementing restoration treatments; and

(8) scientific knowledge must be translated and transferred to land managers, resource specialists, communities, and stakeholders that collaborate in the development and implementation of those treatments.

(b) PURPOSES.—The purposes of this section are—

(1) to—

(A) improve the ecological health, resource values, and sustainability of forest and woodland ecosystems in Arizona and New Mexico; and

(B) reduce the threat of unnatural wildfire, disease, and insect infestations in those States;

(2) to restore ecosystem structure and function so that ecosystems will—

(A) support biodiversity;

(B) enhance watershed values;

(C) increase water flow to seeps and springs; and

(D) increase tree, grass, forb, and shrub vigor and growth to provide sustainable economic activities for current and future generations;

(3) to develop the scientific knowledge to inform the design of adaptive ecosystem management restoration treatments that will restore long-term ecological health to forests and woodlands in the States; and

(4) to encourage collaboration among land management agencies, communities, and interest groups in developing, implementing, and monitoring adaptive ecosystem management restoration treatments that are ecologically sound, economically viable, and socially responsible.

(c) DEFINITIONS.—In this section:

(1) ADAPTIVE ECOSYSTEM MANAGEMENT.—The term ''adaptive ecosystem management'' means management practiced by engaging researchers, land managers, resource specialists, policy analysts, decisionmakers, nonprofit organizations, and communities in conducting collaborative large-scale management experiments that seek to restore ecosystem health while seeking unexplored opportunities to enhance natural resource values.

(2) ECOLOGICAL INTEGRITY.—The term ''ecological integrity'' includes a critical range of variability in biodiversity, ecological processes and structures, regional and historical

context, and sustainable forestry practices in forests and woodlands.

(3) ECOLOGICAL RESTORATION.—The term ''ecological restoration'' means the process of assisting the recovery and management of ecological integrity.

(4) INSTITUTE.—The term ''Institute'' means an institute established under subsection (d)(1).

(5) LAND MANAGEMENT AGENCY.—The term ''land management agency'' means a Federal, State, local, or tribal land management agency.

(6) PRACTITIONER.—The term ''practitioner'' means a person or entity that practices natural resource management.

(7) SECRETARIES.—The term ''Secretaries'' means—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) the Secretary of the Interior.

(8) STATE.—The term ''State'' means—

(A) the State of Arizona; and

(B) the State of New Mexico.

(d) ESTABLISHMENT OF INSTITUTES.—

(1) IN GENERAL.—The Secretary of Agriculture, in consultation with the Secretary of the Interior, shall establish—

(A) an Ecological Restoration Institute in Flagstaff, Arizona; and

(B) an Institute at a college or university in the State of New Mexico selected by the Secretary of Agriculture, in consultation with the Secretary of the Interior.

(2) SCOPE OF RESEARCH; TRANSFER OF INFORMATION.—Each Institute shall—

(A) plan, conduct, or otherwise arrange for applied ecosystem management research that—

(i) assists in answering questions identified by land managers, practitioners, and others concerned with land management; and

(ii) will be useful in the development and implementation of practical, science-based, ecological restoration treatments;

(B) translate scientific knowledge into communication tools that are easily understood by land managers, natural resource professionals, and concerned citizens; and

(C) provide similar information to land managers and other interested persons.

(3) COOPERATION.—Each Institute shall cooperate with—

(A) researchers at colleges and universities in the States that have demonstrated capabilities for research, information dissemination, continuing education, and undergraduate and graduate training, to develop broad capacity to implement ecological restoration in forest and woodland ecosystems; and

(B) other organizations and entities in the region (such as the Western Governors' Association, Southwest Strategy group, the Southwest Fire Management Board, and the Arizona Governor's Forest Health/Fire Plan Advisory Committee), to increase and accelerate efforts to restore forest ecosystem health and abate unnatural and unwanted wildfire.

(4) APPROVAL OF ANNUAL WORK PLAN; REQUISITE ASSURANCES.—As a condition to the receipt of funds made available under subsection (g), for each fiscal year, each Institute shall submit to the Secretary of Agriculture, for review by the Secretary of Agriculture, in consultation with the Secretary of the Interior, an annual work plan that includes assurances, satisfactory to the Secretaries, that the proposed work will serve the information needs of—

(A) land managers;

(B) practitioners;

(C) concerned citizens and communities; and

(D) the States.

(e) COOPERATION BETWEEN INSTITUTES AND FEDERAL AGENCIES.—In carrying out this section, the Secretary of Agriculture, in consultation with the Secretary of the Interior—

(1) shall encourage other Federal departments, agencies, and instrumentalities to use and take advantage of, on a cooperative basis, the expertise and capabilities that are available through the Institutes;

(2) shall encourage cooperation and coordination with other Federal programs relating to—

(A) ecological restoration; and

(B) wildfire risk reduction;

(3) may (notwithstanding chapter 63 of title 31, United States Code)—

(A) enter into contracts, cooperative agreements, interagency personal agreements; and

(B) carry out other transactions;

(4) may accept funds from other Federal departments, agencies, and instrumentalities to supplement or fully fund grants made, and contracts entered into, by the Secretaries;

(5) may promulgate such regulations as the Secretaries consider appropriate;

(6) may support a program of internships for qualified individuals at the undergraduate and graduate levels to carry out the educational and training objectives of this section; and

(7) shall encourage professional education and public information activities relating to the purposes of this section.

(f) MONITORING AND EVALUATION.—

(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall complete a detailed evaluation of each Institute—

(A) to ensure, to the maximum extent practicable, that the research, communication tools, and information transfer activities of the Institute meet the needs of—

(i) land managers;

(ii) practitioners;

(iii) concerned citizens and communities; and

(iv) the States; and

(B) to determine whether continued provision of Federal assistance to the Institute is warranted.

(2) STANDARDS FOR RECEIPT OF FINANCIAL ASSISTANCE.—If, as a result of an evaluation under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, determines that an Institute does not qualify for further Federal assistance under this section, the Institute shall receive no further Federal assistance under this section until such time as the qualifications of the Institute are reestablished to the satisfaction of the Secretaries.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each fiscal year.

On page 875, at the end of line 3, add ''and''.

On page 875, beginning on line 9, strike the semicolon and all that follows through line 24 and insert a period.

On page 876, line 4, strike ''647'' and insert ''6___''.

On page 877, strike lines 1 through 7 and insert the following:

''(C) EXCLUSIONS.—The term 'biomass' does not include—

''(i) paper that is commonly recycled; or

''(ii) unsegregated garbage.

On page 884, strike lines 1 through 6 and insert the following:

''(2) BIOREFINERY.—The term 'biorefinery' means equipment and processes that—

''(A) convert biomass into fuels and chemicals; and

''(B) may produce electricity.

On page 885, strike lines 7 through 15 and insert the following:

''(A) IN GENERAL.—In selecting projects to receive grants under subsection (c), the Secretary—

''(i) shall select projects based on the likelihood that the projects will demonstrate the commercial viability of a process for converting biomass into fuels or chemicals; and

''(ii) may consider the likelihood that the projects will produce electricity.

On page 886, line 8, strike ''and''.

On page 886, line 10, strike the period and insert ''; and''.

On page 886, between lines 10 and 11, insert the following:

''(x) the potential for developing advanced industrial biotechnology approaches.

On page 898, line 8, strike ''15'' and insert ''30''.

On page 898, strike lines 10 through 14 and insert the following:

''(ii) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN.—The combined amount of a grant and loan made or guaranteed under subsection (a) for a renewable energy system shall not exceed 60 percent of the cost of the renewable energy system.

On page 899, line 8, strike ''15'' and insert ''25''.

On page 899, strike lines 11 through 15 and insert the following:

''(ii) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN.—The combined amount of a grant and loan made or guaranteed under subsection (a) for an energy efficiency project shall not exceed 50 percent of the cost of the energy efficiency improvement.

On page 901, strike line 17 and insert the following:

''(a) FINDINGS.—Congress finds that—

''(1) fuel cells are a highly efficient, clean, and flexible technology for generating electricity from hydrogen that promises to improve the environment, electricity reliability, and energy security;

''(2)(A) because fuel cells can be made in any size, fuel cells can be used for a wide variety of farm applications, including powering farm vehicles, equipment, houses, and other operations; and

''(B) much of the initial use of fuel cells is likely to be in remote and off-grid applications in rural areas; and

''(3) hydrogen is a clean and flexible fuel that can play a critical role in storing and transporting energy produced on farms from renewable sources (including biomass, wind, and solar energy).

''(b) GRANT PROGRAM.—The Secretary of Agriculture, in

On page 902, strike line 5 and insert the following:

''(c) ELIGIBLE ENTITIES.—Under subsection (b), the

On page 902, line 12, strike''research''.

On page 902, line 15, strike ''or''.

On page 902, line 16, strike the period and insert ''; or''.

On page 902, between lines 16 and 17, insert the following:

''(7) a consortium comprised of entities described in paragraphs (1) through (6).''

On page 902, line 17, strike ''(c)'' and insert ''(d)''.

On page 902, line 19, strike ''(a)(1),'' and insert ''(b)(1),''.

On page 902, strike line 23 and insert the following:

''(3) generate both usable electricity and heat;

On page 903, line 5, strike ''(d)'' and insert ''(e)''.

On page 903, line 7, strike ''(a)'' and insert ''(b)''.

On page 903, line 9, strike ''(e)'' and insert ''(f)''.

In Amendment No. 2471 (FLO01.633), on page 8, strike lines 21 through 24 and insert the following:

''(A) a college or university or a research foundation maintained by a college or university;

In Amendment No. 2471 (FLO01.633), on page 5, line 11, strike ''leakage and performance'' and insert ''leakage, performance, and permanence''

In Amendment No. 2471 (FLO01.633), on page 10, line 5, strike ''and establish''.

In Amendment No. 2471 (FLO01.633), on page 10, strike line 15 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

In Amendment No. 2471 (FLO01.633), on page 13, line 22, strike ''emission'' and insert ''emissions''.

In Amendment No. 2471 (FLO01.633), on page 14, lines 9 and 10, strike ''farmers and ranchers.'' and insert ''farmers, ranchers, private forest landowners, and State agencies.''.

In Amendment No. 2471 (FLO01.633), on page 14, beginning on line 16, strike ''farmers and ranchers'' and all that follows through line 18 and insert ''farmers, ranchers, private forest landowners, and State agencies may better understand the global implications of the activities of the farmers, ranchers, private forest landowners, and State agencies.''.

In Amendment No. 2471 (FLO01.633), on page 15, strike lines 12 through 23 and insert the following:

''SEC. 310. FUNDING.

''(a) TRANSFERS BY THE SECRETARY OF THE TREASURY.—

''(1) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, and on October 1, 2002, 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 to carry out this title $15,000,000, to remain available until expended.

''(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this title the funds transferred under paragraph (1), without further appropriation.

''(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts transferred under subsection (a), there are authorized to be appropriated to carry out this title $49,000,000 for each of fiscal years 2002 through 2006.''.

In Amendment No. 2471 (FLO01.633), on page 16, line 6, strike ''(as amended by section 661)''.

In Amendment No. 2471 (FLO01.633), on page 16, line 8, strike ''21'' and insert ''20''.

In Amendment No. 2471 (FLO01.633), on page 16, strike lines 10 through 13 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 hydrogen 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).

In Amendment No. 2471 (FLO01.633), on page 16, line 17, after ''utilities'', insert the following: ''(as determined by the Secretary)''.

In Amendment No. 2471 (FLO01.633), on page 20, line 12, insert ''(as amended by section 7____)'' after ''7261 et seq.)''.

In Amendment No. 2471 (FLO01.633), on page 20, line 14, strike ''409'' and insert ''412''.

In Amendment No. 2471 (FLO01.633), beginning on page 23, strike line 23 and all that follows through page 25, line 10, and insert the following:

''(B) ELIGIBILITY CRITERIA.—To be eligible for a grant under paragraph (1), a project shall (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 and permanence; or

''(III) promote additionality; and

''(ii) not involve—

''(I) the reforestation of land that has been deforested since 1990; or

''(II) the conversion of native grassland.

''(C) PRIORITY 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;

''(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.

In Amendment No. 2471 (FLO01.633), on page 26, strike lines 8 through 21.

In Amendment No. 2471 (FLO01.633), on page 26, line 22, strike ''(d)'' and insert ''(c)''

In Amendment No. 2471 (FLO01.633), on page 27, line 6, 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 930, between lines 21 and 22, insert the following:

''(iv) wild fish;

On page 930, line 22, strike ''(iv)'' and insert ''(v)''.

On page 930, line 24, strike ''(v)'' and insert ''(vi)''.

On page 932, between lines 5 and 6, insert the following:

''(9) WILD FISH.—

''(A) IN GENERAL.—The term 'wild fish' means naturally-born or hatchery-raised fish and shellfish harvested in the wild.

''(B) INCLUSIONS.—The term 'wild fish' includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.

''(C) EXCLUSIONS.—The term 'wild fish' excludes net-pen aquacultural or other farm-raised fish.

On page 932, line 6, strike ''272'' and insert ''282''.

On page 932, line 20, strike ''and'' at the end.

On page 932, line 23, strike ''and'' at the end.

On page 932, after line 23, add the following:

''(C) in the case of wild fish, is—

''(i) harvested in waters of the United States, a territory of the United States, or a State; and

''(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof; and

On page 933, line 1, strike ''(C)'' and insert ''(D)''.

On page 933, between lines 3 and 4, insert the following:

''(3) WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

On page 934, line 6, strike ''274'' and insert ''284''.

On page 935, line 12, strike ''273'' and insert ''283''.

On page 935, line 16, strike ''272'' and insert ''282''.

On page 935, line 23, strike ''272'' and insert ''282''.

On page 936, line 1, strike ''272'' and insert ''282''.

On page 936, line 6, strike ''274'' and insert ''284''.

On page 936, line 14, strike ''275'' and insert ''285''.

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 ''282'' and insert ''292''.

On page 937, line 12, strike ''283'' and insert ''293''.

On page 937, between lines 16 and 17, insert the following:

SEC. 10____. EQUAL CROP INSURANCE TREATMENT OF POTATOES AND SWEET POTATOES.

Section 508(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(2)) is amended in the first sentence by striking ''and potatoes'' and inserting '', potatoes, and sweet potatoes''.

On page 941, between lines 4 and 5, insert the following:

Subtitle C—Animal Health Protection

SEC. 1021. SHORT TITLE.

This subtitle may be cited as the ''Animal Health Protection Act''.

SEC. 1022. 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 other articles;

(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)(A) 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 commerce and foreign commerce;

(ii) to regulate effectively interstate commerce and foreign commerce; and

(iii) to protect the agriculture, environment, economy, and health and welfare of the people of the United States.

SEC. 1023. 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 of livestock.

(4) ENTER.—The term ''enter'' means to move into the commerce 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 commerce—

(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 that 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;

(B) to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting;

(C) to offer to carry, enter, import, mail, ship, or transport;

(D) to receive in order to carry, enter, import, mail, ship, or transport;

(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, cause damage to, or cause disease in livestock:

(A) A protozoan.

(B) A plant.

(C) A bacteria.

(D) A fungus.

(E) A virus or viroid.

(F) An infectious agent or other pathogen.

(G) An arthropod.

(H) A parasite.

(I) A prion.

(J) A vector.

(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 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.

(17) UNITED STATES.—The term ''United States'' means all of the States.

SEC. 1024. 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, or use of any means of conveyance or facility, 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;

(2) the further movement of any animal that has strayed into the United States 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; and

(3) the use of any means of conveyance in connection with the importation or entry 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 of livestock.

(b) REGULATIONS.—The Secretary may promulgate regulations requiring that any animal imported or entered be raised or handled under post-importation quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the animal is or may be affected by any pest or disease of livestock.

(c) DESTRUCTION OR REMOVAL.—

(1) IN GENERAL.—The Secretary may order the destruction or removal from the United States of—

(A) any animal, article, or means of conveyance that has been imported but has not entered the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock;

(B) any animal or progeny of any animal, article, or means of conveyance that has been imported or entered in violation of this subtitle; or

(C) any animal that has strayed into the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock.

(2) REQUIREMENTS OF OWNERS.—

(A) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—

(i) a means of conveyance used in connection with the importation of an animal;

(ii) an individual involved in the importation of an animal and personal articles of the individual; and

(iii) any article used in the importation of an animal.

(B) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—

(i) 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

(ii) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action, destruction, or removal.

SEC. 1025. 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;

(2) the exportation of any livestock if the Secretary determines that the livestock is unfit to be moved;

(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 dissemination from or 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;

(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. 1026. 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. 1027. SEIZURE, QUARANTINE, AND DISPOSAL.

(a) IN GENERAL.—The Secretary may hold, seize, quarantine, treat, destroy, dispose of, or take other remedial action with respect to—

(1) any animal or progeny of any animal, article, or means of conveyance that—

(A) is moving or has been moved in interstate commerce or has been imported and entered; and

(B) 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 and that the presence of the pest or disease threatens the livestock of the United States, the Secretary may—

(A) hold, seize, treat, apply other remedial actions to, destroy (including preventative slaughter), or otherwise dispose of, any animal, article, facility, or means of conveyance if the Secretary determines the action is necessary to prevent the dissemination of the pest or disease; and

(B) prohibit or restrict the movement or use within a State, or any portion of a State of any animal or article, means of conveyance, or facility if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the pest or disease.

(2) STATE ACTION.—

(A) IN GENERAL.—The Secretary may take action in a State under this subsection only on finding that measures being taken by the State are inadequate to control or eradicate the pest or disease, after review and consultation with—

''(i) the Governor or an appropriate animal health official of the State; or

''(ii) in the case of any animal, article, facility, or means of conveyance under the jurisdiction of an Indian tribe, the head of the Indian tribe.

(B) NOTICE.—Subject to subparagraph (C), before any action is taken in a State under subparagraph (A), the Secretary shall—

(i) notify the Governor, an appropriate animal health official of the State, or head of the Indian tribe of the proposed action;

(ii) issue a public announcement of the proposed action; and

(iii) publish in the Federal Register—

(I) the findings of the Secretary;

(II) a description of the proposed action; and

(III) a statement of the reasons for the proposed action.

(C) NOTICE AFTER ACTION.—If it is not practicable to publish in the Federal Register the information required under subparagraph (B)(iii) before taking action under subparagraph (A), the Secretary shall publish the information as soon as practicable, but not later than 10 business days, after commencement of the action.

(c) QUARANTINE, DISPOSAL, OR OTHER REMEDIAL ACTION.—

(1) IN GENERAL.—The Secretary, in writing, may order the owner of any animal, article, facility, or means of conveyance referred to in subsection (a) or (b) to maintain in quarantine, dispose of, or take other remedial action with respect to the animal, article, facility, or means of conveyance, in a manner determined by the Secretary.

(2) FAILURE TO COMPLY WITH ORDERS.—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, facility, 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) REVIEWABILITY OF DETERMINATION.—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 or 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 of the animal or article in violation of this subtitle;

(C) any animal, article, or means of conveyance that is refused entry under this subtitle; or

(D) any animal, article, facility, or means of conveyance that becomes or 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 or a violation of this subtitle by the owner.

SEC. 1028. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) GUIDELINES.—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 1027(b), on probable cause to believe that the person or means of conveyance is carrying any animal or article quarantined under section 1027(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 and 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 any inspection or seizure under this subtitle.

(B) EXECUTION.—The warrant may be applied for and executed by the Secretary or any United States marshal.

SEC. 1029. 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, or means of conveyance consistent with the purposes of this subtitle.

SEC. 1030. 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.

SEC. 1031. COOPERATION.

(a) IN GENERAL.—To carry out this subtitle, the Secretary may cooperate with other Federal agencies, States or political 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 or 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 will not be adversely affected by the production and sale.

(2) PROCEEDS.—

(A) INDEPENDENT PRODUCTION AND SALE.—If the Secretary independently produces and sells sterile screwworms under paragraph (1), the proceeds of the sale shall be—

(i) deposited into the Treasury of the United States; and

(ii) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(B) COOPERATIVE PRODUCTION AND SALE.—

(i) IN GENERAL.—If the Secretary cooperates to produce and sell sterile screwworms under paragraph (1), the proceeds of the sale shall be divided between the United States and the cooperating national government or international organization or association in a manner determined by the Secretary.

(ii) ACCOUNT.—The United States portion of the proceeds shall be—

(I) deposited into the Treasury of the United States; and

(II) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(d) COOPERATION IN PROGRAM ADMINISTRATION.—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.

(e) CONSULTATION WITH OTHER FEDERAL AGENCIES.—

(1) 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.

(2) LEAD AGENCY.—The Department of Agriculture shall be the lead agency with respect to issues related to pests and diseases of livestock.

SEC. 1032. REIMBURSABLE AGREEMENTS.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into reimbursable fee 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 all overtime, night, or holiday work performed by the officer or employee at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for any expenses paid by the Secretary for the services under this subsection.

(B) USE OF FUNDS.—All funds collected under this subsection shall—

(i) be credited to the account that incurs the costs; and

(ii) remain available until expended, without fiscal year limitation.

(d) LATE PAYMENT PENALTIES.—

(1) COLLECTION.—On failure by a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person, including interest on overdue funds, as required by section 3717 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. 1033. 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.

(2) REQUIREMENTS.—A claim may not be allowed under this subsection unless the claim is presented in writing to the Secretary not later than 2 years after the date on which the claim arises.

SEC. 1034. PENALTIES.

(a) CRIMINAL PENALTIES.—Any person that knowingly violates this subtitle, or that knowingly 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 1 year, 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 may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A)(i) $50,000 in the case of any individual, except that the civil penalty may not exceed $1,000 in the case of an initial violation of this subtitle by an individual moving regulated articles not for monetary gain;

(ii) $250,000 in the case of any other person for each violation; and

(iii) $500,000 for all violations adjudicated in a single proceeding; or

(B) twice the gross gain or gross loss for any violation or forgery, counterfeiting, or unauthorized use, alteration, defacing or destruction of a certificate, permit, or other document provided under this subtitle that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the violation or violations and the Secretary may consider, with respect to the violator—

(A) the ability to pay;

(B) the effect on ability to continue to do business;

(C) any history of prior violations;

(D) the degree of culpability; and

(E) such other factors as the Secretary considers to be appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—

(A) FINAL ORDER.—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) REVIEW.—The validity of the order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) INTEREST.—Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

(c) SUSPENSION OR REVOCATION OF ACCREDITATION.—

(1) IN GENERAL.—The Secretary may, after notice and opportunity for a hearing on the record, suspend or revoke the accreditation of any veterinarian accredited under this subtitle that violates this subtitle.

(2) FINAL ORDER.—The order of the Secretary suspending or revoking accreditation shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(3) SUMMARY SUSPENSION.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary may summarily 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.

(d) 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 the other person.

(e) 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. 1035. ENFORCEMENT.

(a) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—The Secretary may gather and compile information and conduct any inspection or investigation that the Secretary considers to be necessary for the administration or enforcement of this subtitle.

(2) SUBPOENAS.—

(A) IN GENERAL.—The Secretary shall have power to issue a subpoena to compel the attendance and testimony of any witness and the production of any documentary evidence relating to the administration or enforcement of this subtitle or any matter under investigation in connection with this subtitle.

(B) 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.

(C) ENFORCEMENT.—

(i) IN GENERAL.—In case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, to require the attendance and testimony of any witness and the production of documentary evidence.

(ii) NONCOMPLIANCE.—In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence.

(iii) CONTEMPT.—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) DEPOSITIONS.—A 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, the agency receiving the delegation shall seek review of the subpoena for legal sufficiency outside that agency.

(b) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may—

(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 has reason to believe that the person has violated, or 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, impending interference, or 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 1034.

SEC. 1036. REGULATIONS AND ORDERS.

The Secretary may promulgate such regulations, and issue such orders, as the Secretary determines necessary to carry out this subtitle.

SEC. 1037. 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 under which 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 are necessary for the arrest, control, eradication, or prevention of 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.

(c) USE OF FUNDS.—In carrying out this subtitle, the Secretary may use funds made available to carry out this subtitle for—

(1) printing and binding, without regard to section 501 of title 44, United States Code;

(2) the employment of civilian nationals in foreign countries; and

(3) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

SEC. 1038. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions of law are repealed:

(1) Public Law 97–46 (7 U.S.C. 147b).

(2) Section 101(b) of the Act of September 21, 1944 (7 U.S.C. 429).

(3) The Act of August 28, 1950 (7 U.S.C. 2260).

(4) Section 919 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2260a).

(5) Section 306 of the Tariff Act of 1930 (19 U.S.C. 1306).

(6) Sections 6 through 8 and 10 of the Act of August 30, 1890 (21 U.S.C. 102 through 105).

(7) The Act of February 2, 1903 (21 U.S.C. 111, 120 through 122).

(8) Sections 2 through 9, 11, and 13 of the Act of May 29, 1884 (21 U.S.C. 112, 113, 114, 114a, 114a–1, 115 through 120, 130).

(9) The first section and sections 2, 3, and 5 of the Act of February 28, 1947 (21 U.S.C. 114b, 114c, 114d, 114d–1).

(10) The Act of June 16, 1948 (21 U.S.C. 114e, 114f).

(11) Public Law 87–209 (21 U.S.C. 114g, 114h).

(12) Section 2506 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i).

(13) The third and fourth provisos of the fourth paragraph under the heading ''BUREAU OF ANIMAL INDUSTRY'' of the Act of May 31, 1920 (21 U.S.C. 116).

(14) The first section and sections 2, 3, 4, and 6 of the Act of March 3, 1905 (21 U.S.C. 123 through 127).

(15) The first proviso under the heading ''GENERAL EXPENSES, BUREAU OF ANIMAL INDUSTRY'' under the heading ''BUREAU OF ANIMAL INDUSTRY'' of the Act of June 30, 1914 (21 U.S.C. 128).

(16) The fourth proviso under the heading ''SALARIES AND EXPENSES'' under the heading ''ANIMAL AND PLANT HEALTH INSPECTION SERVICE'' of title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (21 U.S.C. 129).

(17) The third paragraph under the heading ''MISCELLANEOUS'' of the Act of May 26, 1910 (21 U.S.C. 131).

(18) The first section and sections 2 through 6 and 11 through 13 of Public Law 87–518 (21 U.S.C. 134 through 134h).

(19) Public Law 91–239 (21 U.S.C. 135 through 135b).

(20) Sections 12 through 14 of the Federal Meat Inspection Act (21 U.S.C. 612 through 614).

(21) Chapter 39 of title 46, United States Code.

(b) CONFORMING AMENDMENTS.—

(1) Section 414(b) of the Plant Protection Act (7 U.S.C. 7714(b)) 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 423 of the Plant Protection Act (7 U.S.C. 7733) is amended—

(A) by striking subsection (b) and inserting the following:

''(b) 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).

(3) Section 11(h) of the Endangered Species Act of 1973 (16 U.S.C. 1540(h)) is amended in the first sentence by striking ''animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614)'' and inserting ''animal quarantine laws (as defined in section 2509(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(f))''.

(4) Section 18 of the Federal Meat Inspection Act (21 U.S.C. 618) is amended by striking ''of the cattle'' and all that follows 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. 136a) 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 (f)(1), by striking subparagraphs (B) 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.''.

(c) EFFECT ON 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 1036 that supersedes the earlier regulation.

In Amendment No. 2534 (FLO01.579), on page 1, strike line 2 and insert the following:

Subtitle D—General Provisions

SEC. 10___. FEES FOR PESTICIDES.

(a) MAINTENANCE FEE.—

(1) AMOUNTS FOR REGISTRANTS.—Section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amended—

(A) in subparagraph (A), by striking ''each year'' and all that follows and inserting ''each year $2,300 for each registration'';

(B) in subparagraph (D)—

(i) in clause (i), by striking ''$55,000'' and inserting ''$70,000''; and

(ii) in clause (ii), by striking ''$95,000'' and inserting ''$120,000''; and

(C) in subparagraph (E)(i)—

(i) in subclause (I) by striking ''$38,500'' and inserting ''$46,000''; and

(ii) in subclause (II), by striking ''$66,500'' and inserting ''$80,000''.

(2) TOTAL AMOUNT OF FEES.—Section 4(i)(5)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(a)–1(i)(5)(C)) is amended—

(A) by striking ''(C)(i) The'' and inserting the following:

''(C) TOTAL AMOUNT OF FEES.—The'';

(B) by striking ''$14,000,000 each fiscal year'' and inserting ''$20,000,000 for the period beginning on January 1, 2002, and ending on February 28, 2002''; and

(C) by striking clause (ii).

(3) DEFINITION OF SMALL BUSINESS.—Section 4(i)(5)(E)(ii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)(E)(ii)) is amended—

(A) in subclause (I), by striking ''150'' and inserting ''500''; and

(B) in subclause (II), by striking ''gross revenue from chemicals that did not exceed $40,000,000'' and inserting ''global gross revenue from pesticides that did not exceed $60,000,000''.

(4) PERIOD OF EFFECTIVENESS.—Section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amended by striking subparagraph (H) and inserting the following:

''(H) PERIOD OF EFFECTIVENESS.—This paragraph shall be in effect during the period beginning on January 1, 2002, and ending on February 28, 2002.''.

(b) OTHER FEES.—Section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(6)) is amended by striking ''the date of the enactment of this section and ending on September 30, 2001'' and inserting ''January 1, 2002, and ending on February 28, 2002''.

(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—

(1) in the paragraph heading, by striking ''EXPEDITED'' and inserting ''REVIEW OF INERT INGREDIENTS; EXPEDITED''; and

(2) in subparagraph (A)—

(A) by striking ''each of the'' and all that follows through ''such fiscal year'' and inserting ''the period beginning on January 1, 2002, and ending on February 28, 2002, 1/7 of the maintenance fees collected during the period'';

(B) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively, and adjusting the margins appropriately; and

(C) by striking ''assure the expedited processing and review of any applicant that'' and inserting the following:

''(i) review and evaluate inert ingredients; and

''(ii) ensure the expedited processing and review of any application that—''.

(d) PESTICIDE TOLERANCE PROCESSING FEES.—Section 408(m)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)(1)) is amended—

(1) by striking ''The Administrator'' and inserting the following:

''(A) IN GENERAL.—The Administrator'';

(2) by striking ''Under the regulations'' and inserting the following:

''(B) INCLUSIONS.—Under the regulations'';

(3) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively, and adjusting the margins appropriately;

(4) by striking ''The regulations may'' and inserting the following:

''(C) WAIVER; REFUND.—The regulations may''; and

(5) by adding at the end the following:

''(D) ANNUAL ADJUSTMENT OF FEES.—The Administrator may annually promulgate regulations to implement changes in the amounts in the schedule of pesticide tolerance processing fees in effect on the date of enactment of this subparagraph by the same percentage as the annual adjustment to the Federal General Schedule pay scale under section 5303 of title 5, United States Code.

''(E) PERIOD OF EFFECTIVENESS.—This paragraph shall be in effect during the period beginning on January 1, 2002, and ending on February 28, 2002.''.

SEC. 10____. PEST MANAGEMENT IN SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the ''School Environment Protection Act of 2002''.

(b) PEST MANAGEMENT.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating sections 33 and 34 (7 U.S.C. 136x, 136y) as sections 34 and 35, 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:

''(1) BAIT.—The term 'bait' means a pesticide that contains an ingredient that serves as a feeding stimulant, odor, pheromone, or other attractant for a target pest.

''(2) CONTACT PERSON.—The term 'contact person' means an individual who is—

''(A) knowledgeable about school pest management plans; and

''(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

''(3) EMERGENCY.—The term 'emergency' means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

''(4) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 3 of the Elementary and Secondary Education Act of 1965.

''(5) SCHOOL.—

''(A) IN GENERAL.—The term 'school' means a public—

''(i) elementary school (as defined in section 3 of the Elementary and Secondary Education Act of 1965);

''(ii) secondary school (as defined in section 3 of that Act);

''(iii) kindergarten or nursery school that is part of an elementary school or secondary school; or

''(iv) tribally-funded school.

''(B) INCLUSIONS.—The term 'school' includes any school building, and any area outside of a school building (including a lawn, playground, sports field, and any other property or facility), that is controlled, managed, or owned by the school or school district.

''(6) SCHOOL PEST MANAGEMENT PLAN.—The term 'school pest management plan' means a pest management plan developed under subsection (b).

''(7) STAFF MEMBER.—

''(A) IN GENERAL.—The term 'staff member' means a person employed at a school or local educational agency.

''(B) EXCLUSIONS.—The term 'staff member' does not include—

''(i) a person hired by a school, local educational agency, or State to apply a pesticide; or

''(ii) a person assisting in the application of a pesticide.

''(8) STATE AGENCY.—The term 'State agency' means the an agency of a State, or an agency of an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), that exercises primary jurisdiction over matters relating to pesticide regulation.

''(9) UNIVERSAL NOTIFICATION.—The term 'universal notification' means notice provided by a local educational agency or school to—

''(A) parents, legal guardians, or other persons with legal standing as parents of each child attending the school; and

''(B) staff members of the school.

''(b) SCHOOL PEST MANAGEMENT PLANS.—

''(1) STATE PLANS.—

''(A) GUIDANCE.—As soon as practicable (but not later than 180 days) after the date of enactment of the School Environment Protection Act of 2002, the Administrator shall develop, in accordance with this section—

''(i) guidance for a school pest management plan; and

''(ii) a sample school pest management plan.

''(B) PLAN.—As soon as practicable (but not later than 1 year) after the date of enactment of the School Environment Protection Act of 2002, each State agency shall develop and submit to the Administrator for approval, as part of the State cooperative agreement under section 23, a school pest management plan for local educational agencies in the State.

''(C) COMPONENTS.—A school pest management plan developed under subparagraph (B) shall, at a minimum—

''(i) implement a system that—

''(I) eliminates or mitigates health risks, or economic or aesthetic damage, caused by pests;

''(II) employs—

''(aa) integrated methods;

''(bb) site or pest inspection;

''(cc) pest population monitoring; and

''(dd) an evaluation of the need for pest management; and

''(III) is developed taking into consideration pest management alternatives (including sanitation, structural repair, and mechanical, biological, cultural, and pesticide strategies) that minimize health and environmental risks;

''(ii) require, for pesticide applications at the school, universal notification to be provided—

''(I) at the beginning of the school year;

''(II) at the midpoint of the school year; and

''(III) at the beginning of any summer session, as determined by the school;

''(iii) establish a registry of staff members of a school, and of parents, legal guardians, or other persons with legal standing as parents of each child attending the school, that have requested to be notified in advance of any pesticide application at the school;

''(iv) establish guidelines that are consistent with the definition of a school pest management plan under subsection (a);

''(v) require that each local educational agency use a certified applicator or a person authorized by the State agency to implement the school pest management plans;

''(vi) be consistent with the State cooperative agreement under section 23; and

''(vii) require the posting of signs in accordance with paragraph (4)(G).

''(D) APPROVAL BY ADMINISTRATOR.—Not later than 90 days after receiving a school pest management plan submitted by a State agency under subparagraph (B), the Administrator shall—

''(i) determine whether the school pest management plan, at a minimum, meets the requirements of subparagraph (C); and

''(ii)(I) if the Administrator determines that the school pest management plan meets the requirements, approve the school pest management plan as part of the State cooperative agreement; or

''(II) if the Administrator determines that the school pest management plan does not meet the requirements—

''(aa) disapprove the school pest management plan;

''(bb) provide the State agency with recommendations for and assistance in revising the school pest management plan to meet the requirements; and

''(cc) provide a 90-day deadline by which the State agency shall resubmit the revised school pest management plan to obtain approval of the plan, in accordance with the State cooperative agreement.

''(E) DISTRIBUTION OF STATE PLAN TO SCHOOLS.—On approval of the school pest management plan of a State agency, the State agency shall make the school pest management plan available to each local educational agency in the State.

''(F) EXCEPTION FOR EXISTING STATE PLANS.—If, on the date of enactment of the School Environment Protection Act of 2002,

a State has implemented a school pest management plan that, at a minimum, meets the requirements under subparagraph (C) (as determined by the Administrator), the State agency may maintain the school pest management plan and shall not be required to develop a new school pest management plan under subparagraph (B).

''(2) IMPLEMENTATION BY LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Not later than 1 year after the date on which a local educational agency receives a copy of a school pest management plan of a State agency under paragraph (1)(E), the local educational agency shall develop and implement in each of the schools under the jurisdiction of the local educational agency a school pest management plan that meets the standards and requirements under the school pest management plan of the State agency, as determined by the Administrator.

''(B) EXCEPTION FOR EXISTING PLANS.—If, on the date of enactment of the School Environment Protection Act of 2002, a State maintains a school pest management plan that, at a minimum, meets the standards and criteria established under this section (as determined by the Administrator), and a local educational agency in the State has implemented 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 prohibit—

''(i) the application of a pesticide (other than a pesticide, including a bait, gel or paste, described in paragraph (4)(C)) to any area or room at a school while the area or 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); and

''(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.

''(3) CONTACT PERSON.—

''(A) IN GENERAL.—Each local educational agency shall designate a contact person to carry out a school pest management plan in schools under the jurisdiction of the local educational agency.

''(B) DUTIES.—The contact person of a local educational agency shall—

''(i) maintain information about the scheduling of pesticide applications in each school under the jurisdiction of the local educational agency;

''(ii) act as a contact for inquiries, and disseminate information requested by parents or guardians, about the school pest management plan;

''(iii) 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) copies of material safety data sheet for pesticides applied at the school, or copies of material safety data sheets for end-use dilutions of pesticides applied at the school, if data sheets are available;

''(II) labels and fact sheets approved by the Administrator for all pesticides that may be used by the local educational agency; and

''(III) any final official information related to the pesticide, as provided to the local educational agency by the State agency; and

''(iv) for each school, maintain all pesticide use data for each pesticide used at the school (other than antimicrobial pesticides (as defined in clauses (i) and (ii) of section 2(mm)(1)(A))) for at least 3 years after the date on which the pesticide is applied; and

''(v) make that data available for inspection on request by any person.

''(4) NOTIFICATION.—

''(A) UNIVERSAL NOTIFICATION.—At the beginning of each school year, at the midpoint of each school year, and at the beginning of any summer session (as determined by the school), a local educational agency or school shall provide to staff members of a school, and to parents, legal guardians, and other persons with legal standing as parents of students enrolled at the school, a notice describing the school pest management plan that includes—

''(i) a summary of the requirements and procedures under the school pest management plan;

''(ii) 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);

''(iii) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

''(iv) the following statement (including information to be supplied by the school as indicated in brackets):

'As part of a school pest management plan, _____ (insert school name) may use pesticides to control pests. The Environmental Protection Agency (EPA) and _____ (insert name of State agency exercising jurisdiction over pesticide registration and use) registers pesticides for that use. EPA continues to examine registered pesticides to determine that use of the pesticides in accordance with instructions printed on the label does not pose unreasonable risks to human health and the environment. Nevertheless, EPA cannot guarantee that registered pesticides do not pose risks, and unnecessary exposure to pesticides should be avoided. Based in part on recommendations of a 1993 study by the National Academy of Sciences that reviewed registered pesticides and their potential to cause unreasonable adverse effects on human health, particularly on the health of pregnant women, infants, and children, Congress enacted the Food Quality Protection Act of 1996. That law requires EPA to reevaluate all registered pesticides and new pesticides to measure their safety, taking into account the unique exposures and sensitivity that pregnant women, infants, and children may have to pesticides. EPA review under that law is ongoing. You may request to be notified at least 24 hours in advance of pesticide applications to be made and receive information about the applications by registering with the school. Certain pesticides used by the school (including baits, pastes, and gels) are exempt from notification requirements. If you would like more information concerning any pesticide application or any product used at the school, contact _____ (insert name and phone number of contact person).'.

''(B) NOTIFICATION TO PERSONS ON REGISTRY.—

''(i) IN GENERAL.—Except as provided in clause (ii) and paragraph (5)—

''(I) notice of an upcoming pesticide application at a school shall be provided to each person on the registry of the school not later than 24 hours before the end of the last business day during which the school is in session that precedes the day on which the application is to be made; and

''(II) the application of a pesticide for which a notice is given under subclause (I) shall not commence before the end of the business day.

''(ii) NOTIFICATION CONCERNING PESTICIDES USED IN CURRICULA.—If pesticides are used as part of a regular vocational agricultural curriculum of the school, a notice containing the information described in subclauses (I), (IV), (VI), and (VII) of clause (iii) for all pesticides that may be used as a part of that curriculum shall be provided to persons on the registry only once at the beginning of each academic term of the school.

''(iii) CONTENTS OF NOTICE.—A notice under clause (i) shall contain—

''(I) the trade name, common name (if applicable), and Environmental Protection Agency registration number of each pesticide to be applied;

''(II) a description of each location at the school at which a pesticide is to be applied;

''(III) a description of the date and time of application, except that, in the case of an outdoor pesticide application, a notice shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled;

''(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 notice or posting of a sign under subparagraph (A), (B), or (G) shall not be required for the application at a school of—

''(i) an antimicrobial pesticide;

''(ii) a bait, gel, or paste that is placed—

''(I) out of reach of children or in an area that is not accessible to children; or

''(II) in a tamper-resistant or child-resistant container or station; and

''(iii) any pesticide that, as of the date of enactment of the School Environment Protection Act of 2002, is exempt from the requirements of this Act under section 25(b) (including regulations promulgated at section 152 of title 40, Code of Federal Regulations (or any successor regulation)).

''(D) NEW STAFF MEMBERS AND STUDENTS.—After the beginning of each school year, a local educational agency or school within a local educational agency shall provide each notice required under subparagraph (A) to—

''(i) each new staff member who is employed during the school year; and

''(ii) the parent or guardian of each new student enrolled during the school year.

''(E) METHOD OF NOTIFICATION.—A local educational agency or school may provide a notice under this subsection, using information described in paragraph (4), in the form of—

''(i) a written notice sent home with the students and provided to staff members;

''(ii) a telephone call;

''(iii) direct contact;

''(iv) a written notice mailed at least 1 week before the application; or

''(v) a notice delivered electronically (such as through electronic mail or facsimile).

''(F) REISSUANCE.—If the date of the application of the pesticide needs to be extended beyond the period required for notice under this paragraph, the school shall issue a notice containing only the new date and location of application.

''(G) POSTING OF SIGNS.—

''(i) IN GENERAL.—Except as provided in paragraph (5)—

''(I) a school shall post a sign not later than the last business day during which school is in session preceding the date of application of a pesticide at the school; and

''(II) the application for which a sign is posted under subclause (I) shall not commence before the time that is 24 hours after the end of the business day on which the sign is posted.

''(ii) LOCATION.—A sign shall be posted under clause (i)—

''(I) at a central location noticeable to individuals entering the building; and

''(II) at the proposed site of application.

''(iii) ADMINISTRATION.—A sign required to be posted under clause (i) shall—

''(I) remain posted for at least 24 hours after the end of the application;

''(II) be—

''(aa) at least 8½ inches by 11 inches for signs posted inside the school; and

''(bb) at least 4 inches by 5 inches for signs posted outside the school; and

''(III) contain—

''(aa) information about the pest problem for which the application is necessary;

''(bb) the name of each pesticide to be used;

''(cc) the date of application;

''(dd) the name and telephone number of the designated contact person; and

''(ee) the statement contained in subparagraph (A)(iv).

''(iv) OUTDOOR PESTICIDE APPLICATIONS.—

''(I) 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 subclause (I) shall be posted after an outdoor pesticide application in accordance with clauses (ii) and (iii).

''(5) EMERGENCIES.—

''(A) IN GENERAL.—A school may apply a pesticide at the school without complying with this part in an emergency, subject to subparagraph (B).

''(B) SUBSEQUENT NOTIFICATION OF PARENTS, GUARDIANS, AND STAFF MEMBERS.—Not later than the earlier of the time that is 24 hours after a school applies a pesticide under this paragraph or on the morning of the next business day, the school shall provide to each parent or guardian of a student listed on the registry, a staff member listed on the registry, and the designated contact person, notice of the application of the pesticide in an emergency that includes—

''(i) the information required for a notice under paragraph (4)(G); and

''(ii) a description of the problem and the factors that required the application of the pesticide to avoid a threat to the health or safety of a student or staff member.

''(C) METHOD OF NOTIFICATION.—The school may provide the notice required by paragraph (B) by any method of notification described in paragraph (4)(E).

''(D) POSTING OF SIGNS.—Immediately after the application of a pesticide under this paragraph, a school shall post a sign warning of the pesticide application in accordance with clauses (ii) through (iv) of paragraph (4)(B).

''(c) RELATIONSHIP TO STATE AND LOCAL REQUIREMENTS.—Nothing in this section (including regulations promulgated under this section)—

''(1) precludes a State or political subdivision of a State from imposing on local educational agencies and schools any requirement under State or local law (including regulations) that is more stringent than the requirements imposed under this section; or

''(2) establishes any exception under, or affects in any other way, section 24(b).

''(d) EXCLUSION OF CERTAIN PEST MANAGEMENT ACTIVITIES.—Nothing in this section (including regulations promulgated under this section) applies to a pest management activity that is conducted—

''(1) on or adjacent to a school; and

''(2) by, or at the direction of, a State or local agency other than a local educational agency.

''(e) 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:

''Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

''Sec. 31. Environmental Protection Agency minor use program.

''Sec. 32. Department of Agriculture minor use program.

''(a) In general.

''(b)(1) Minor use pesticide data.

''(2) 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.

''(c) Relationship to State and local requirements.

''(d) 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, 2002.

On page 945, between lines 5 and 6, insert the following:

SEC. 10___. EXPANSION OF STATE MARKETING PROGRAMS.

(a) STATE MARKETING PROGRAMS.—Section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)) is amended—

(1) by striking ''(b) The'' and all that follows through '': *Provided*, That no'' and inserting the following:

''(b) STATE MARKETING PROGRAMS.—

''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available $7,000,000 for fiscal year 2003, $8,000,000 for fiscal year 2004, and $10,000,000 for each of fiscal years 2005 and 2006 for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and in marketing research to effectuate the purposes of—

''(A) title II of this Act; and

''(B) the Farmer's Market Promotion Program established under section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976.

''(2) SMALL FARMS AND LIMITED RESOURCE FARMERS.—Of the funds made available under paragraph (1), a priority shall be given for initiatives designed to support direct and other marketing efforts of small farms and limited resource farmers.

''(3) STATE FUNDS.—No'';

(2) by striking ''The funds which'' and inserting the following:

''(4) ADDITIONAL FUNDS.—The funds that'';

(3) by striking ''The allotments'' and inserting the following:

''(5) RECIPIENT AGENCIES.—The allotments'';

(4) by striking ''Such allotments'' and inserting the following:

''(6) COOPERATIVE AGREEMENTS.—The allotments''; and

(5) by striking ''Should duplication'' and inserting the following:

''(7) DUPLICATION.—If duplication''.

(b) FARMERS' MARKET PROMOTION PROGRAM.—

(1) SURVEY.—Section 4 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3003) is amended—

(A) in the first sentence, by striking ''a continuing'' and inserting ''an annual''; and

(B) by striking the second sentence.

(2) DIRECT MARKETING ASSISTANCE.—Section 5 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking ''Extension Service of the United States Department of Agriculture'' and inserting ''Secretary''; and

(ii) in the second sentence—

(I) by striking ''Extension Service'' and inserting ''Secretary''; and

(II) by striking ''and on the basis of which of these two agencies, or combination thereof, can best perform these activities'' and inserting '', as determined by the Secretary'';

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

''(b) DEVELOPMENT OF FARMERS' MARKETS.—The Secretary shall—

''(1) work with the Governor of a State, and a 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 farmers' markets.''.

(3) FARMERS' MARKET PROMOTION PROGRAM.—The Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3001 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 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 the entity is—

''(1) an agricultural cooperative;

''(2) a local government;

''(3) a nonprofit corporation;

''(4) a public benefit corporation;

''(5) an economic development corporation;

''(6) a regional farmers' market authority; or

''(7) such other entity as the Secretary may designate.

''(d) CRITERIA AND GUIDELINES.—The Secretary shall establish criteria and guidelines for the submission, evaluation, and funding of proposed projects under the Program.

''(e) AMOUNT.—

''(1) IN GENERAL.—Under the Program, the amount of a grant to an eligible entity for any 1 project shall be not more than $500,000 for any 1 fiscal year.

''(2) AVAILABILITY.—The amount of a grant to an eligible entity for a project shall be available until expended or until the date on which the project terminates.

''(f) COST SHARING.—

''(1) IN GENERAL.—The share of the costs of a project covered by a grant awarded under the Program shall not exceed 60 percent.

''(2) GRANTEE SHARE.—

''(A) FORM.—The non-Federal share of the cost of a project carried out under the Program may be paid in the form of cash or the provision of services, materials, or other in-kind contributions.

''(B) 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 grantee share required under this paragraph.

''(g) FUNDING.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2006.

''(2) LIMITATION.—Except for funds made available pursuant to section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), no amounts may be made available to carry out this section unless specifically provided by an appropriation Act.''.

On page 946, line 18, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 951, between lines 6 and 7, insert the following:

(b) DEFINITION OF SOCIALLY DISADVANTAGED GROUP.—Section 2501(e)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(1)) is amended by striking ''racial or ethnic'' and inserting ''gender, racial, or ethnic''.

SEC. 10___. WILD FISH AND WILD SHELLFISH.

Section 2104 of the Organic Foods Production Act of 1990 (7 U.S.C. 6503) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) WILD FISH AND WILD SHELLFISH.—

''(1) IN GENERAL.—Notwithstanding section 2107(a)(1), the Secretary may allow, through regulations promulgated after public notice and opportunity for comment, wild fish or wild shellfish harvested from salt water to be certified or labeled as organic.

''(2) CONSULTATION AND ACCOMMODATION.—In carrying out paragraph (1), the Secretary shall—

''(A) consult with—

''(i) the Secretary of Commerce;

''(ii) the National Organic Standards Board established under section 2119;

''(iii) producers, processors, and sellers; and

''(iv) other interested members of the public; and

''(B) to the maximum extent practicable, accommodate the unique characteristics of the industries in the United States that harvest and process wild fish and shellfish.''.

SEC. 10___. ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.

(a) IN GENERAL.—Section 218 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918) is amended by adding at the end the following:

''(f) ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.—

''(1) DEFINITION OF SOCIALLY DISADVANTAGED FARMER OR RANCHER.—In this subsection, the term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

''(2) ESTABLISHMENT OF POSITION.—The Secretary shall establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights.

''(3) APPOINTMENT.—The Assistant Secretary of Agriculture for Civil Rights shall be appointed by the President, by and with the advice and consent of the Senate.

''(4) DUTIES.—The Assistant Secretary of Agriculture for Civil Rights shall—

''(A) enforce and coordinate compliance with all civil rights laws and related laws—

''(i) by the agencies of the Department; and

''(ii) under all programs of the Department (including all programs supported with Department funds);

''(B) ensure that—

''(i) the Department has measurable goals for treating customers and employees fairly and on a nondiscriminatory basis; and

''(ii) the goals and the progress made in meeting the goals are included in—

''(I) strategic plans of the Department; and

''(II) annual reviews of the plans;

''(C) compile and publicly disclose data used in assessing civil rights compliance in achieving on a nondiscriminatory basis participation of socially disadvantaged farmers and ranchers in programs of the Department;

''(D)(i) hold Department agency heads and senior executives accountable for civil rights compliance and performance; and

''(ii) assess performance of Department agency heads and senior executives on the basis of success made in those areas;

''(E) ensure, to the maximum extent practicable—

''(i) a sufficient level of participation by socially disadvantaged farmers and ranchers in deliberations of county and area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

''(ii) that participation data and election results involving the committees are made available to the public; and

''(F) perform such other functions as may be prescribed by the Secretary.''.

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Agriculture (2)'' and inserting ''Assistant Secretaries of Agriculture (3)''.

(c) CONFORMING AMENDMENTS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(5) the authority of the Secretary to establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights under section 218(f).''.

On page 951, strike lines 7 through 11 and insert the following:

SEC. 10___. 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 inserting after section 2501 (7 U.S.C. 2279) the following:

''SEC. 2501A. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

''(a) PURPOSE.—The purpose of this section is to ensure compilation and public disclosure of data to assess and hold the Department of Agriculture accountable for the nondiscriminatory participation of socially disadvantaged farmers and ranchers in programs of the Department.

''(b) DEFINITION OF SOCIALLY DISADVANTAGED FARMER OR RANCHER.—In this section, the term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

''(c) COMPILATION OF PROGRAM PARTICIPATION DATA.—

''(1) ANNUAL REQUIREMENT.—For each county and State in the United States, the Secretary shall compute annually the participation rate 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.

''(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 of each race, ethnicity, and gender in proportion to the total number of farmers and ranchers participating in each program.''.

(b) PUBLIC DISCLOSURE REQUIREMENTS FOR COUNTY COMMITTEE ELECTIONS.—Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) is amended by striking subparagraph (B) and inserting the following:

On page 958, line 3, strike the closing quotation marks and insert the following:

''(v) PUBLIC AVAILABILITY AND REPORT TO CONGRESS.—

''(I) PUBLIC DISCLOSURE.—The Secretary shall maintain and make readily 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 (iii)(V) collected annually since the most recent Census of Agriculture.

''(II) REPORT TO CONGRESS.—After each Census of Agriculture, the Secretary shall report to Congress the rate of loss or gain in participation by each socially disadvantaged group, by race, ethnicity, and gender, since the previous Census.''.

On page 958, between lines 3 and 4, insert the following:

SEC. 10___. ANIMAL ENTERPRISE TERRORISM.

(a) IN GENERAL.—Section 43 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) OFFENSE.—

''(1) IN GENERAL.—It shall be unlawful for a person to—

''(A) travel in interstate or foreign commerce, or use or cause to be used the mail or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprise; and

''(B) intentionally damage or cause the loss of any property (including an animal or record) used by the animal enterprise, or conspire to do so.

''(b) PENALTIES.—

''(1) ECONOMIC DAMAGE.—A person that, in the course of a violation of subsection (a), causes economic damage to an animal enterprise in an amount less than $10,000 shall be imprisoned not more than 6 months, fined under this title, or both.

''(2) MAJOR ECONOMIC DAMAGE.—A person that, in the course of a violation of subsection (a), causes economic damage to an animal enterprise in an amount equal to or greater than $10,000 shall be imprisoned not more than 3 years, fined under this title, or both.

''(3) SERIOUS BODILY INJURY.—A person that, in the course of a violation of subsection (a), causes serious bodily injury to another individual shall be imprisoned not more than 20 years, fined under this title, or both.

''(4) DEATH.—A person that, in the course of a violation of subsection (a), causes the death of an individual shall be imprisoned for life or for any term of years, fined under this title, or both.''; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''restitution—'' and inserting ''restitution for—'';

(B) in paragraph (1)—

(i) by striking ''for''; and

(ii) by striking ''and'' at the end;

(C) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(3) any other economic damage resulting from the offense.''.

On page 958, between lines 7 and 8, insert the following:

SEC. 10____. TRANSPORTATION OF POULTRY AND OTHER ANIMALS.

Section 5402(d)(2) of title 39, United States Code (as amended by section 651(2) of Public Law 107–67 (115 Stat. 557)), is amended by striking subparagraph (C).

SEC. 10___. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

Section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a) is amended—

(1) in subsection (a), by striking '', not to exceed $20,000,000 annually,''; and

(2) by striking subsection (c) and inserting the following:

''(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.''.

On page 961, strike lines 8 through 13 and insert the following:

(a) IN GENERAL.—Of funds of the Commodity Credit Corporation, the Secretary of Agriculture (acting through the Agricultural Marketing Service) shall use $3,500,000 for fiscal year 2002, $3,500,000 for each of fiscal years 2003 and 2004, and $3,000,000 for fiscal year 2005 to establish a national organic certification cost-share program to assist producers and handlers of agricultural products in obtaining certification.

On page 961, between lines 5 and 6, insert the following:

SEC. 10___. PRECLEARANCE QUARANTINE INSPECTIONS.

The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 2505 (Public Law 101–624; 104 Stat. 4068) the following:

''SEC. 2505A. PRECLEARANCE QUARANTINE INSPECTIONS.

''(a) IN GENERAL.—Subject to subsection (b), the Secretary of Agriculture, acting through the Administrator of the Animal and Plant Health Inspection Service, shall conduct, at all direct departure and interline airports in the State of Hawaii, preclearance quarantine inspections of persons, baggage, cargo, and any other articles destined for movement from the State of Hawaii to—

''(1) the continental United States;

''(2) Guam;

''(3) Puerto Rico; or

''(4) the Virgin Islands of the United States.

''(b) LIMITATION.—Subsection (a) shall not be implemented unless appropriations for necessary expenses of the Animal and Plant Health Inspection Service for inspection, quarantine, and regulatory activities are increased by an amount not less than $3,000,000 in a fiscal year 2002 appropriation Act other than the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76).''.

SEC. 10___. EMERGENCY LOANS FOR SEED PRODUCERS.

Section 253(b)(5)(B) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 114 Stat. 423) is amended by striking ''18 months'' and inserting ''54 months''.

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, after ''person'', 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 982, line 19, insert ''used knowingly'' after ''or''.

On page 984, after line 2, insert the following:

SEC. 10___. REVIEW OF STATE MEAT INSPECTION PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the goal of a safe and wholesome supply of meat and meat food products throughout the United States would be better served if a consistent set of 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, Federal and State 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) REVIEW.—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) an analysis of the effectiveness of the State program; and

(2) identification of changes that are necessary to enable the possible future transformation of the State program to a State meat and poultry inspection program that includes the mandatory antemortem and postmortem inspection, reinspection, sanitation, and related requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) (including the regulations, directives, notices, policy memoranda, and other regulatory requirements of those Acts).

(c) COMMENT.—In carrying out subsection (a), the Secretary shall, to the maximum extent practicable, obtain comment from interested parties.

(d) FUNDING.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 10___. AGRICULTURAL RESEARCH AND TECHNOLOGY.

(a) SCIENTIFIC STUDIES.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct scientific studies on—

(A) the transmission of spongiform encephalopathy in deer, elk, and moose; and

(B) chronic wasting disease (including the risks that chronic wasting disease poses to livestock).

(2) REPORT.—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 scientific studies.

(b) RESEARCH AND EXTENSION GRANT PROGRAM.—The Secretary shall establish a program to provide research and extension grants to eligible entities (as determined by the Secretary) to develop, for livestock production—

(1) prevention and control methodologies for infectious animal diseases that affect trade; and

(2) laboratory tests to expedite detection of—

(A) infected livestock; and

(B) the presence of diseases within herds or flocks of livestock.

(c) VACCINES.—

(1) VACCINE STORAGE STUDY.—The Secretary shall—

(A) conduct a study to determine the number of doses of livestock disease vaccines that should be available to protect against livestock diseases that could be introduced into the United States; and

(B) compare that number with the number of doses of the livestock disease vaccines that are available as of that date.

(2) STOCKPILING OF VACCINES.—If, after conducting the study and comparison described in paragraph (1), the Secretary determines that there is an insufficient number of doses of a particular vaccine referred to in that paragraph, the Secretary shall take such actions as are necessary to obtain the required additional doses of the vaccine.

(d) VETERINARY TRAINING.—The Secretary shall develop a program to maintain in all regions of the United States a sufficient number of Federal and State veterinarians who are well trained in recognition and diagnosis of exotic and endemic animal diseases.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 through 2006.

SEC. 10___. OFFICE OF SCIENCE TECHNOLOGY POLICY.

(a) IN GENERAL.—The President may—

(1) establish within the Office of Science and Technology Policy a noncareer, senior executive service appointment position for a Veterinary Advisor; and

(2) appoint an individual to the position.

(b) QUALIFICATIONS; DUTIES.—The individual appointed to the position described in subsection (a) shall—

(1) hold the degree of Doctor of Veterinary Medicine from an accredited or approved college of veterinary medicine; and

(2) provide to the science advisor of the President expertise in—

(A) exotic and endemic animal disease detection, prevention, and control;

(B) food safety; and

(C) animal agriculture.

(c) EXECUTIVE SCHEDULE PAY RATES.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Veterinary Advisor, Office of Science and Technology Policy.''.

SEC. 10___. OPERATION OF AGRICULTURAL AND NATURAL RESOURCE PROGRAMS ON TRIBAL TRUST LAND.

(a) REVIEW.—The Secretary of Agriculture (referred to in this section as the ''Secretary''), in consultation with the Secretary of the Interior, shall conduct a review of the operation of agricultural and natural resource programs available to farmers and ranchers operating on tribal and trust land, including—

(1) natural resource management programs;

(2) incentive programs; and

(3) farm income support programs.

(b) ADMINISTRATION.—The Secretary shall carry out programs described in subsection (a) in a manner that, to the maximum extent practicable, is consistent with the American Indian Agricultural Resource Management Act (25 U.S.C. 3701 et seq.).

(c) FACT-FINDING TEAM.—The Secretary shall establish a fact-finding team to obtain input from local officials and program recipients to assist in carrying out this section.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes actions taken to carry out this section, including a plan to implement the actions.

SEC. 10___. ASSISTANCE FOR GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS.

(a) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) any community-based organization, network, or coalition of community-based organizations that—

(i) has demonstrated experience in providing agricultural education or other agriculturally related services to geographically disadvantaged farmers and ranchers;

(ii) has provided to the Secretary documentary evidence of work with geographically disadvantaged farmers and ranchers during the 2-year period preceding the submission of an application for assistance under this section; and

(iii) has not engaged in activities prohibited under section 501(c)(3) of the Internal Revenue Code of 1986;

(B)(i) a land-grant college or university that is located in an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) (as amended by section 701(a)) or in a State other than 1 of the 48 contiguous States; and

(ii) any other institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that has demonstrated experience in providing agricultural education or other agriculture-related services to geographically disadvantaged farmers and ranchers in a region; and

(C) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) or national tribal organization that has demonstrated experience in providing agriculture education or other agriculturally related services to geographically disadvantaged farmers and ranchers in a region.

(3) GEOGRAPHICALLY DISADVANTAGED FARMER OR RANCHER.—The term ''geographically disadvantaged farmer or rancher'' means a farmer or rancher in an insular area (as defined in section 1404 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (7 U.S.C. 3103)) (as amended by section 701(a)) or in a State, other than one of the 48 contiguous States.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) PROGRAM.—The Secretary shall carry out an assistance program to encourage and assist geographically disadvantaged farmers and ranchers—

(1) in owning and operating farms and ranches; and

(2) in participating equitably in the full range of agricultural programs offered by the Department.

(c) REQUIREMENTS.—The assistance program under subsection (b) shall—

(1) enhance coordination of technical assistance and education efforts authorized under various agricultural programs; and

(2) include information on, and assistance with—

(A) commodity, conservation, credit, rural, and business development programs;

(B) application and bidding procedures;

(C) farm and risk management;

(D) marketing; and

(E) other activities essential to participation in agricultural and other programs of the Department.

(d) GRANTS AND CONTRACTS.—The Secretary may make grants to, and enter into contracts and other agreements with, an eligible entity to provide information and technical assistance under this section.

(e) REPORT.—Not later than 1 year after funds are made available to carry out this section, the Secretary shall submit to Congress a report that identifies barriers to efficient and competitive transportation of inputs and products by geographically disadvantaged farmers and ranchers.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2006.

SEC. 10___. SENSE OF SENATE REGARDING USE OF THE NAME GINSENG.

It is the sense of the Senate that the Commissioner of Food and Drugs should promulgate regulations to ensure that, for the purposes of section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), the name ''ginseng'' or any name that includes the word ''ginseng'' shall be used in reference only to an herb or herbal ingredient that—

(1) is a part of a plant of 1 of the species of the genus Panax; and

(2) is produced in compliance with United States law regarding the use of pesticides.

Subtitle E—Studies and Reports

SEC. 10___. REPORT 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;

(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

(3) an analysis of impediments to additional purchases of pouched and canned salmon, including—

(A) any marketing issues; and

(B) recommendations for methods to resolve those impediments.

SEC. 10___. SETTLEMENT AGREEMENT REPORT.

Not later than December 31, 2002, and annually thereafter through 2006, the Comptroller General of the United States shall submit to Congress a report that describes all programs and activities that States have carried out using funds received under all phases of the Master Settlement Agreement of 1997.

SEC. 10___. REPORT ON GENETICALLY MODIFIED PEST-PROTECTED PLANTS.

(a) FINDINGS.—Congress finds that—

(1) in 2000, the Committee on Genetically Modified Pest-Protected Plants of the Board on Agriculture and Natural Resources of the National Research Council made several recommendations concerning food safety, ecological research, and monitoring needs for transgenic crops with plant incorporated protectants; and

(2) the Committee recommended enhancements to certain operational aspects of the regulatory framework for agricultural biotechnology, such as—

(A) improving coordination and enhanced consistency of review across all regulatory agencies; and

(B) clarifying the scope of the regulatory jurisdiction of the Animal and Plant Health Inspection Service.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture should—

(1) review the recommendations described in subsection (a); and

(2) 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 actions taken to implement those recommendations by agencies within the Department of Agriculture, including agencies that develop or implement programs or objectives relating to marketing, regulation, food safety, research, education, or economics.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2002; and

(2) such sums as are necessary for each subsequent fiscal year.

SEC. 10___. STUDY OF CREATION OF LITTER BANK BY UNIVERSITY OF ARKANSAS.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study to evaluate the creation of a litter bank by the Department of Agriculture at the University of Arkansas for the purpose of enhancing health and viability of watersheds in areas with large concentrations of animal producing units.

(b) COMPONENTS.—In conducting the study, the Secretary shall evaluate the costs, needs, and means by which litter may be collected and distributed outside the applicable watershed to reduce potential point source and nonpoint source phosphorous pollution.

(c) REPORT.—Not later than 1 year 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 that describes the results of the study.

SEC. 10___. STUDY OF FEASIBILITY OF PRODUCER INDEMNIFICATION FROM GOVERNMENT-CAUSED DISASTERS.

(a) FINDINGS.—Congress finds that the implementation of Federal disaster assistance programs fails to adequately address situations in which disaster conditions are primarily the result of Federal action.

(b) AUTHORITY.—The Secretary of Agriculture shall conduct a study of the feasibility of expanding eligibility for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), and noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), to agricultural producers experiencing disaster conditions caused primarily by Federal agency action.

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary shall submit report 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 results of the study, including any recommendations.

SEC. 10___. REPORT ON SALE AND USE OF PESTICIDES FOR AGRICULTURAL USES.

Not later than 120 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency 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 manner in which the Agency is applying regulations of the Agency governing the sale and use of pesticides for agricultural use to electronic commerce transactions.

SEC. 10___. REPORT ON RATS, MICE, AND BIRDS.

(a) IN GENERAL.—Not later than 1 year after date 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 on the implications of including rats, mice, and birds within the definition of animal under the Animal Welfare Act (7 U.S.C. 2131 et seq.).

(b) REQUIREMENTS.—The report under subsection (a) shall—

(1) be completed by the Comptroller General of the United States;

(2) contain a description of the number and types of entities that currently use rats, mice, and birds, and are not subjected to regulations of the Department of Agriculture;

(3) contain estimates of the numbers of rats, mice, and birds currently used in research facilities that are not currently regulated by the United States Department of Agriculture;

(4) contain an estimate of the additional costs likely to be incurred by breeders and research facilities resulting from the additional regulatory requirements needed in order to afford the same levels of protection to rats, mice, and birds as is provided for species currently regulated by the Department of Agriculture, detailing the costs associated with individual regulatory requirements;

(5) contain an estimate of the additional funding that the Animal and Plant Health Inspection Service would require to be able to ensure that the level of compliance with respect to other regulated animals is not diminished by the increase in the number of facilities that would require inspections after a rule extending the definition to include rats, mice, and birds goes into effect; and

(6) contain recommendations for ensuring that the regulatory burden is no greater than that already applied to rodent species under the Animal Welfare Act (7 U.S.C. 2131 et seq.).

SEC. 10___. TASK FORCE ON NATIONAL INSTITUTES FOR PLANT AND AGRICULTURAL SCIENCES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall establish a task force to evaluate the merits of establishing 1 or more National Institutes for Plant and Agricultural Sciences.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall consist of at least 8 members, appointed by the Secretary, that—

(A) have a broad-based background in food, nutrition, biotechnology, crop production methods, environmental science, or related disciplines; and

(B) are familiar with the infrastructure used to conduct Federal and private research, including—

(i) the National Institutes of Health;

(ii) the National Science Foundation;

(iii) the National Aeronautics and Space Administration;

(iv) the Department of Energy laboratory system;

(v) the Agricultural Research Service; and

(vi) the Cooperative State Research and Extension Service.

(2) PRIVATE SECTOR.—Of the members appointed under paragraph (1), the Secretary shall appoint at least 6 members that are members of the private sector, including institutions of higher education.

(3) PLANT AND AGRICULTURAL SCIENCES RESEARCH.—Of the members appointed under paragraph (1), the Secretary shall appoint at least 2 members that have an extensive background and preeminence in the field of plant and agricultural sciences research.

(4) CHAIRPERSON.—Of the members appointed under paragraph (1), the Secretary shall designate a Chairperson that has significant leadership experience in educational and research institutions and in depth knowledge of the research enterprises of the United States.

(5) CONSULTATION.—Before appointing members of the Task Force under this subsection, the Secretary shall consult with the National Academy of Sciences and the Office of Science and Technology Policy.

(c) DUTIES.—The Task Force shall—

(1) evaluate and compare—

(A) publicly funded agricultural and plant sciences research activities, including competitively awarded research; and

(B) privately funded agricultural and plant sciences research activities;

(2) evaluate and compare—

(A) competitive publicly funded agricultural research activities; and

(B) other forms of publicly funded research, such as medical research;

including an assessment of the methods of evaluation, administration, and funding;

(3) evaluate the need for competitive public plant and agricultural sciences research necessary—

(A) to increase crop yields and productivity;

(B) to improve environmental quality;

(C) to enhance the value of farm output to agricultural producers and consumers;

(D) to promote health and improve nutrition;

(E) to enhance food safety; and

(F) to increase effective agricultural production to meet the future needs of the growing population of the world, especially in developing countries;

(4) evaluate the merits of establishing 1 or more National Institutes for Plant and Agricultural Sciences, that is similar to the National Institute of Health—

(A) to coordinate competitive, innovative research and technological development and innovation;

(B) to ensure the necessary supply of scientific personnel in order to ensure the competitiveness of the United States in an increasingly global trade market for agricultural products; and

(C) to facilitate the integration of scientific advances from medical sciences, engineering, and information technologies into plant and agricultural sciences; and

(5) if establishment of 1 or more National Institutes for Plant and Agricultural Sciences is recommended, provide further recommendations to the Secretary, including recommendations on—

(A) the structure for establishing the Institutes;

(B) the location of the Institutes in 1 or more multistate regions with preeminence in plant, agricultural, and related biological sciences (including in existing Federal plant and animal research facilities and land grant institutions), in order—

(i) to use all relevant fields of knowledge; and

(ii) to promote collaborative and interdisciplinary research; and

(C) the amount of funding necessary to establish the Institutes.

(d) REPORT.—Not later than July 1, 2003, the Task Force shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary a report that describes the results of the evaluation conducted under this section, including recommendations described in subsection (c)(5).

On page 985, in section 1041(b), strike ''456'' each place it appears and insert ''4___''.

On page 987, after line 2, add the following:

SEC. 10___. COMMODITY CREDIT CORPORATION FUNDING.

Except for funds made available through a user fee or funds made available in an appropriation act, notwithstanding any other provision of this Act or an amendment made by this Act, any funds that are made available through the transfer of funds from the Secretary of the Treasury to the Secretary of Agriculture expressly under this Act or an amendment made by this Act shall be made available through funds of the Commodity Credit Corporation.

Strike page 888, line 24, through page 889 line 2, and insert in lieu thereof the following ''Of the funds of the Commodity Credit Corporation, the Secretary shall make available $5 million for each fiscal year 2003 through 2006.''

SEC. 1___. ADJUSTED GROSS REVENUE INSURANCE PILOT PROGRAM.

Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523) is amended by adding at the end the following:

''(e) ADJUSTED GROSS REVENUE INSURANCE PILOT PROGRAM.—

''(1) IN GENERAL.—The Corporation shall carry out, through at least the 2004 reinsurance year, the adjusted gross revenue insurance pilot program in effect for the 2002 reinsurance year.

''(2) ADDITIONAL COUNTIES.—

''(A) IN GENERAL.—In addition to counties otherwise included in the pilot program, the Corporation shall include in the pilot program for the 2003 reinsurance year at least 8 counties in the State that produces (as of the date of enactment of this subsection) the

highest quantity of specialty crops for which adjusted gross revenue insurance under this title is not available.

''(B) SELECTION CRITERIA.—In carrying out subparagraph (A), the Corporation shall include in the pilot program counties that (as determined by the Corporation) produce a significant quantity of specialty crops.''.

''SEC. . PASTEURIZATION.

''For the purposes of any provision of federal law under which a food or food product is required to undergo a treatment of pasteurization, the term 'pasteurization' means any safe treatment that—

''(1) is a treatment prescribed as pasteurization applicable to the food or food product under any Federal law (including a regulation); or

''(2) has been demonstrated to the satisfaction of the Secretary of HHS to achieve a level of reduction in the food or food product of the microorganisms of public health concern that—

''(A) is at least as protective of the public health a treatment described in paragraph (1); and

''(B) is effective for a period that is at least as long as the shelf life of the food or food product when stored under normal, moderate, and severe abuse conditions.''.

Strike ''Agriculture, Conservation, and Rural Enhancement Act of 2001'' each place it appears and insert ''Agriculture, Conservation, and Rural Enhancement Act of 2002''.

SA 2860. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 17 and 18, insert the following:

SEC. 402. FEDERAL ELECTION DAY.

(a) ELECTION DAY OBSERVED.—

(1) DESIGNATION.—November 5, 2002, and November 2, 2004, are designated as ''Federal Election Day''.

(2) LEGAL PUBLIC HOLIDAY.—Federal Election Day—

(A) is a legal public holiday for the purpose of statutes relating to pay and leave of employees;

(B) shall be treated as a holiday in accordance with section 6103 of title 5, United States Code; and

(C) shall begin at 1 o'clock post meridian.

(3) REGULATIONS.—The President may prescribe regulations to carry out this subsection.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the impact on voter participation of making Federal Election Day a legal public holiday.

(2) REPORT.—Not later than May 2, 2005, the Comptroller General shall submit a report to Congress and the President detailing the results of the study conducted under paragraph (1).

SA 2861. Mr. SMITH of New Hampshire proposed an amendment to amendment SA 2858 submitted by Mr. ALLARD and intended to be proposed to the amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

Strike ''**SEC. 401.**'' and all that follows and insert the following:

STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) by striking ''Each State'' and inserting ''(a) IN GENERAL.—Each State''; and

(2) by adding at the end the following:

''(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

''(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—

''(A) solely on the grounds that the ballot lacked—

''(i) a notarized witness signature;

''(ii) an address (other than on a Federal write-in absentee ballot, commonly known as 'SF186');

''(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or

''(iv) an overseas postmark; or

''(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.

''(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 402. MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.

(a) IN GENERAL.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 401(a) of this Act and section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(5) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and

''(6) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—

''(A) has registered to vote under this section; and

''(B) is eligible to vote in that election under State law.''.

(b) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

''(7) The term 'recently separated uniformed services voter' means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—

''(A) presents to the election official Department of Defense form 214 evidencing their former status as such a voter, or any other official proof of such status;

''(B) is no longer such a voter; and

''(C) is otherwise qualified to vote in that election.'';

(3) by redesignating paragraph (10) (as redesignated by paragraph (1)) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

''(10) The term 'uniformed services voter' means—

''(A) a member of a uniformed service in active service;

''(B) a member of the merchant marine; and

''(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 403. PROHIBITION OF REFUSAL OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

(a) IN GENERAL.—Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1279), is amended by adding at the end the following new subsection:

''(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 404. DISTRIBUTION OF FEDERAL MILITARY VOTER LAWS TO THE STATES.

Not later than the date that is 60 days after the date of enactment of this Act, the Secretary of Defense (in this section referred to as the ''Secretary''), as part of any voting assistance program conducted by the Secretary, shall distribute to each State (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) enough copies of the Federal military voting laws (as identified by the Secretary) so that the State is able to distribute a copy of such laws to each jurisdiction of the State.

SEC. 405. EFFECTIVE DATES.

Notwithstanding the preceding provisions of this title, each effective date otherwise provided under this title shall take effect 1 day after such effective date.

SA 2862. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 22, strike ''Commission'' and insert ''Commission, in consultation with the Architectural and Transportation Barriers Compliance Board,''.

On page 64, line 19, strike ''316(a)(2)).'' and insert ''316(a)(2)), except that—

''(1) the Architectural and Transportation Barriers Compliance Board shall remain responsible under section 223 for the general policies and criteria for the approval of applications submitted under section 222(a); and

''(2) in revising the voting systems standards under section 101(c)(2) the Commission shall consult with the Architectural and Transportation Barriers Compliance Board.''.

SA 2863. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 22, strike ''Commission'' and insert ''Commission, in consultation with the Architectural and Transportation Barriers Compliance Board,''.

SA 2864. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 64, line 19, strike ''316(a)(2)).'' and insert ''316(a)(2)), except that—

''(1) the Architectural and Transportation Barriers Compliance Board shall remain responsible under section 223 for the general policies and criteria for the approval of applications submitted under section 222(a); and

''(2) in revising the voting systems standards under section 101(c)(2) the Commission shall consult with the Architectural and Transportation Barriers Compliance Board.''.

SA 2865. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows;

On page 68, between lines 17 and 18, insert the following:

SEC. 402. DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.

(a) RESPONSIBILITIES OF SECRETARY OF DEFENSE.—

(1) ADDITIONAL DUTIES.—Section 1566(g) of title 10, United States Code, as added by section 1602(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1274), is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by striking paragraph (2) and inserting the following new paragraphs:

''(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall ensure that the measures implemented under the preceding sentence do not result in the delivery of absentee ballots to the final destination of such ballots after the date on which the election for Federal office is held.

''(3) The Secretary of each military department shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.''.

(2) REPORT.—The Secretary of Defense shall submit to Congress a report describing the measures to be implemented under section 1566(g)(2) of title 10, United States Code (as added by paragraph (1)), to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1602 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1274) upon the enactment of that Act.

SA 2866. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, strike lines 9 through 12, and insert the following:

submitted under section 212(c)(1)(B) of such section;

(6) to establish toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights abuses; or

(7) to meet the requirements under section 101, 102, or 103.

SA 2867. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections,

and for other purposes; which was ordered to lie on the table; as follows:

On page 54, strike lines 15 through 17, and insert the following: ''hours, including the advisability of establishing a uniform poll closing time;''.

SA 2868. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 17 and 18, insert the following:

SEC. 402. ESTABLISHMENT OF ELECTION DAY IN FEDERAL ELECTION YEARS AS A LEGAL PUBLIC HOLIDAY.

Section 6103(a) of title 5, United States code, is amended by inserting after the item relating to Veterans Day the following:

''Election Day, the Tuesday next after the first Monday in November in each even-numbered year.''.

SA 2869. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 17 and 18, insert the following:

SEC. ____. SENSE OF THE SENATE REGARDING STATE AND LOCAL INPUT INTO CHANGES MADE TO THE ELECTORAL PROCESS.

(a) FINDINGS.—Congress finds the following:

(1) Although Congress has the responsibility to ensure that our citizens' right to vote is protected, and that votes are counted in a fair and accurate manner, States and localities have a vested interest in the electoral process.

(2) The Federal Government should ensure that States and localities have some say in any election mandates placed upon the States and localities.

(3) Congress should ensure that any election reform laws contain provisions for input by State and local election officials.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Justice and the Committee on Election Reform should take steps to ensure that States and localities are allowed some input into any changes that are made to the electoral process, preferably through some type of advisory committee or commission.

SA 2870. Mr. WYDEN (for himself, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 2688 proposed by Mr. DODD to the bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, beginning with line 8, strike through page 19, line 19, and insert the following:

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.—

(1) IN GENERAL.—Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—

(A) the individual has registered to vote in a jurisdiction by mail; and

(B) the individual has not previously voted in an election for Federal office in that State.

(2) REQUIREMENTS.—

(A) IN GENERAL.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification;

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter;

(III) provides written affirmation on a form provided by the appropriate State or local election official of the individual's identity; or

(IV) provides a signature or personal mark for matching with the signature or personal mark on record with the appropriate State or local election official; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification;

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter; or

(III) a signature or personal mark for matching with the signature or personal mark on record with the appropriate State or local election official.

(B) SIGNATURE COMPARISON.—Notwithstanding the requirements of subparagraph (A), a State may elect to require voters described in subsection (b)(1)(A) and (B) to provide a signature or personal mark for matching with the voter's signature or personal mark on record with a state or local election official, in lieu of the requirements under such subparagraph. States making such election shall provide notice to such voters consistent with the notice provided for provisional ballots under Section 102(a)(5) and (6).

On line 20, change ''(B)'' to ''(C).''

SA 2871. Mr. SCHUMER proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 8, strike lines 5 through 18, and insert the following:

(B) EXCEPTIONS.—

(i) If a State meets the criteria of item (aa) of subparagraph (A)(i)(I) with respect to a language, a jurisdiction of that State shall not be required to provide alternative language accessibility under this paragraph with respect to that language if—

(I) less than 5 percent of the total number of voting-age citizens who reside in that jurisdiction speak that language as their first language and are limited-English proficient; and

(II) the jurisdiction does not meet the criteria of item (bb) of such subparagraph with respect to that language.

(ii) A State or locality that uses a lever voting system and that would be required to provide alternative language accessibility under the preceding provisions of this paragraph with respect to an additional language that was not included in the voting system of the State or locality before the date of enactment of this Act may meet the requirements of this paragraph with respect to such additional language by providing alternative language accessibility through the voting systems used to meet the requirement of paragraph (3)(B) if—

(I) it is not practicable to add the alternative language to the lever voting system or the addition of the language would cause the voting system to become more confusing or difficult to read for other voters;

(II) the State or locality has filed a request for a waiver with the Office of Election Administration of the Federal Election Commission or, after the transition date (as defined in section 316(a)(2)), with the Election Administration Commission, that describes the need for the waiver and how the voting system under paragraph (3)(B) would provide alternative language accessibility; and

(III) the Office of Election Administration or the Election Administration Commission (as appropriate) has approved the request filed under subclause (II).

SA 2872. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 565, to establish the

Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 21, strike lines 1 through 5, and insert the following:

(B)(i) Except as provided in clause (ii), the question ''Will you be 18 years of age on or before election day?'' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.

(ii) If the State law permits an individual to register to vote even though the individual will not be 18 years of age or older on election day, the State may substitute a question reflecting the State's age requirement for the question in clause (i).

SA 2873. Mr. SCHUMER proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for purposes; as follows:

On page 13, strike line 22, and insert the following: ''is not counted (such notice shall include the State's voter registration form); and''.

SA 2874. Mr. DODD (for Ms. CANTWELL (for himself, Mrs. MURRAY, and Mr. DODD)) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 5, strike lines 4 through 14, and insert the following:

(B) A State or locality that uses a paper ballot voting system, a punchcard voting system, or a central count voting system (including mail-in absentee ballots or mail-in ballots), may meet the requirement of subparagraph (A) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

SA 2875. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, strike lines 10 through 24, and insert the following:

voter;

(III) provides written affirmation on a form provided by the appropriate State or local election official of the individual's identity; or

(IV) provides a signature or personal mark that matches the signature or personal mark of the individual on record with a State or local election official; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification;

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter; or

(III) provides a signature or personal mark that matches the signature or personal mark of the individual on record with a State or local election official.

(B) PROVISIONAL VOTING.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 102(a).

(3) IDENTITY VERIFICATION BY SIGNATURE OR PERSONAL MARK.—

(A) IN GENERAL.—In lieu of the requirements of paragraph (1), a State may require each individual described in such paragraph to provide a signature or personal mark for the purpose of matching such signature or mark with the signature or personal mark of that individual on record with a State or local election official.

(B) NOTICE REQUIREMENTS.—If a State elects to adopt the requirements described in subparagraph (A), the State shall—

(i) provide each individual providing a signature or personal mark under such subparagraph with—

(I) written information similar to the information described in paragraph (5) of section 102(a); and

(II) notice similar to the notice described in paragraph (6)(A) of such section; and

(ii) establish a free access system similar to the system described in paragraph (6)(B) of such section.

On page 18, line 13, after ''shall'' insert ''in a uniform and non-discriminatory manner''.

SA 2876. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 18, line 8, strike through page 19, line 24, and insert the following:

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.—

(1) IN GENERAL.—Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—

(A) the individual has registered to vote in a jurisdiction by mail; and

(B) the individual has not previously voted in an election for Federal office in that State.

(2) REQUIREMENTS.—

(A) IN GENERAL.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification;

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter;

(III) provides written affirmation on a form provided by the appropriate State or local election official of the individual's identity; or

(IV) provides a signature or personal mark that matches the signature or personal mark of the individual on record with a State or local election official; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification;

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter; or

(III) provides a signature or personal mark that matches the signature or personal mark of the individual on record with a State or local election official.

(B) PROVISIONAL VOTING.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 102(a).

(3) IDENTITY VERIFICATION BY SIGNATURE OR PERSONAL MARK.—

(A) IN GENERAL.—In lieu of the requirements of paragraph (1), a State may require

each individual described in such paragraph to provide a signature or personal mark for the purpose of matching such signature or mark with the signature or personal mark of that individual on record with a State or local election official.

(B) NOTICE REQUIREMENTS.—If a State elects to adopt the requirements described in subparagraph (A), the State shall—

(i) provide each individual providing a signature or personal mark under such subparagraph with—

(I) written information similar to the information described in paragraph (5) of section 102(a); and

(II) notice similar to the notice described in paragraph (6)(A) of such section; and

(ii) establish a free access system similar to the system described in paragraph (6)(B) of such section.

On page 21, strike lines 24 and 25, and insert the following:

section (b) on and after January 1, 2004.

On page 38, strike lines 2 and 3, and insert the following:

procedures and programs to identify,

On page 68, strike lines 19 and 20, and insert the following:

(a) IN GENERAL.—Nothing in this Act may be construed to authorize

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SA 2877. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, after line 19, add the following:

SEC. . DEVELOPMENT AND USE OF ELECTRONIC AND ONLINE VOTING SYSTEMS.

Nothing in this Act may be construed to limit the development or use of electronic or online voting systems as long as such systems meet the voting systems standards and the other requirements established under title I.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a nomination hearing during the session of the Senate on Wednesday, February 13, 2002. The purpose of this hearing will be to consider the following nominations: Thomas Dorr the nominee for Under Secretary of Rural Development: Nancy Bryson, the administration's nominee to serve as general counsel for USDA: and Grace Daniel and Fred Dailey who are nominated to serve on the Board of Federal Agricultural Mortgage Corporation.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet on February 13, 2002, at 10 a.m., to conduct a hearing on ''HUD's FY03 Budget and Legislative Proposals.''

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, February 13, 2002 at 9:30 a.m. to conduct a hearing to examine the administration's Fiscal Year 2003 budget proposal for the Environment Protection Agency. The hearing will be held in SD–406.

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

COMMITTEE ON FINANCE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, February 13, 2002 at 10:00 a.m. to hear testimony on ''The Sectoral Trade Dispute: Lumber and Steel.''

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

COMMITTEE ON FINANCE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, February 13, 2002 at 1:30 p.m. to hear testimony on ''The Sectoral Trade Dispute: Lumber and Steel.''

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

COMMITTEE ON FINANCE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open executive session during the session of the Senate on Wednesday, February 13, 2002 at 4 p.m., on ''Energy Tax Incentives.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Protecting Against Genetic Discrimination: The Limits Of Existing Law during the session of the Senate on Wednesday, February 13, 2002, at 2 p.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, February 13, 2002, at 2 p.m. in room 485 Russell Senate Building to conduct an oversight hearing on the Implementation of the Native American Housing Assistance and Self-Determination Act. A business meeting to mark up S. 1857, tribal claims, will precede the hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''The Application of Federal Antitrust Laws to Major League Baseball'' on Wednesday, February 13, 2002 at 10 a.m. in Dirksen Room 226.

Witness List

Panel I: The Honorable PAUL WELLSTONE, the Honorable BILL NELSON, and the Honorable MARK DAYTON.

Panel II: The Honorable Bob Butterworth, Attorney General of Florida, Tallahassee, FL; the Honorable Lori Swanson, Deputy Attorney General of Minnesota, St. Paul, MN; Mr. Robert DuPuy, Executive Vice President and Chief Legal Officer, Office of the Commissioner of Major League Baseball, New York, NY; Mr. Donald M. Fehr, Executive Director and General Counsel, Major League Baseball Players Association, New York, NY; and Mr. Stan Brand, Vice President, Minor League Baseball, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 13, 2002 at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND COURTS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet on Wednesday, February 13, 2002 at 2 p.m. in Dirksen 226, to conduct a public briefing by Richard A. Clarke, Special Advisor to the President for Cyberspace Security and Chairman of the President's Infrastructure Board, the White House, Washington, DC.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING, AND THE DISTRICT OF COLUMBIA

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Wednesday, February 13, 2002 at 9:30 a.m. for a hearing to examine ''Illicit Diamonds, Conflict and Terrorism: The Role of U.S. Agencies in Fighting the Conflict Diamond Trade.''

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

SUBCOMMITTEE ON PERSONNEL

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, February 13, 2002, at 9:20 a.m., in open session to receive testimony on active and reserve military and civilian personnel programs, in review of the Defense authorization request for fiscal year 2003.

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

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that privileges of the floor be granted to Lee Telega, a member of Senator CLINTON's staff, for the pendency of this legislation.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 696 and 698. I ask unanimous consent that these nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that any statements relating to the nominations be printed in the RECORD.

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

The nominations were considered and confirmed, as follows:

SPECIAL PANEL ON APPEALS

John L. Howard, of Illinois, to be Chairman of the Special Panel on Appeals for a term of six years.

OFFICE OF PERSONNEL MANAGEMENT

Dan Gregory Blair, of the District of Columbia, to be Deputy Director of the Office of Personnel Management.

NOMINATIONS DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of the following nominations: Linda Combs, to be Chief Financial Officer at the Environmental Protection Agency, and Morris Winn, to be Assistant Administrator for Administration and Resources Management at the Environmental Protection Agency; that the nominations be considered and confirmed, the motions to reconsider be laid upon the table, that any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed, as follows:

ENVIRONMENTAL PROTECTION AGENCY

Linda Morrison Combs, of North Carolina, to be Chief Financial Officer, Environmental Protection Agency.

Morris X. Winn, of Texas, to be an Assistant Administrator of the Environmental Protection Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

READING OF WASHINGTON'S FAREWELL ADDRESS

Mr. REID. Mr. President, notwithstanding the resolution of the Senate of January 24, 1901, I ask unanimous consent that the traditional reading of Washington's Farewell Address take place on Monday, February 25, 2002.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified by the order of February 13, 2002, appoints the Senator from New Jersey (Mr. CORZINE) to read Washington's Farewell Address on February 25, 2002.

PERMITTING USE OF ROTUNDA OF CAPITOL

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 325 just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 325) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of the victims of the Holocaust.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be considered agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 325) was agreed to.

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 97, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 97) providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (S. Con. Res. 97) was agreed to.

(The text of the resolution is printed in today's RECORD under ''Statements on Submitted Resolutions.'')

UNANIMOUS CONSENT AGREEMENT—S.J. RES. 31

Mr. REID. Mr. President, I ask unanimous consent that at a time determined by the majority leader, following consultation with the Republican leader, the Senate turn to the consideration of Calendar No. 315, S.J. Res. 31; that the statutory time limitation be reduced to 30 minutes, with the time equally divided and controlled between the chairman and ranking member of the Budget Committee or their designees; that upon the use or yielding back of time, the Senate proceed to vote on passage of the joint resolution, without further action or debate.

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

ORDERS FOR THURSDAY, FEBRUARY 14, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Thursday, February 14; that 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 there be a period of morning business until 10:15 a.m., with Senators permitted to speak for up to 10 minutes each, with the first 20 minutes under the control of Senators DORGAN and HAGEL; further, that at 10:15 a.m. the Senate resume consideration of the election reform bill.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:28 p.m., adjourned until Thursday, February 14, 2002, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 13, 2002:

SPECIAL PANEL ON APPEALS

JOHN L. HOWARD, OF ILLINOIS, TO BE CHAIRMAN OF THE SPECIAL PANEL ON APPEALS FOR A TERM OF SIX YEARS.

OFFICE OF PERSONNEL MANAGEMENT

DAN GREGORY BLAIR, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

ENVIRONMENTAL PROTECTION AGENCY

MORRIS X. WINN, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

LINDA MORRISON COMBS, OF NORTH CAROLINA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.