United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, DECEMBER 13, 2001 No. 173

House of Representatives

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

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

The Clerk read the resolution, as follows:

H. RES. 316

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

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

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This morning, the Committee on Rules met and granted a rule providing for further consideration of S. 1438, the fiscal year 2002 Department of Defense Authorization Act. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report shall be considered as read.

Mr. Speaker, this rule allows us to finish up our work on the defense bill. All of us, on both sides of the aisle, recognize that we must provide for our military in this time of crisis. Indeed, the gentleman from Texas (Mr. FROST) who is managing this rule for the minority, has always been a strong advocate for our men and women in uniform.

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

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

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

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

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

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

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

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

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

This conference report provides $7 billion to combat terrorism and defeat

NOTICE

Effective January 1, 2002, the subscription price of the Congressional Record will be $422 per year or $211 for six months. Individual issues may be purchased for $5.00 per copy. The cost for the microfiche edition will remain $141 per year with single copies remaining $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

Michael F. DiMario, *Public Printer*

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Printed on recycled paper.

weapons of mass destruction, a substantial and much-needed increase. It provides for a significant military pay raise, and for substantial increases in critical readiness accounts. It strengthens research for tomorrow's weapons and equipment, while providing the weapons and equipment the U.S. military needs today.

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

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

□ 1100

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

Additionally, Mr. Speaker, the conference report provides some $1.5 billion for continued development of the Joint Strike Fighter, the high-technology, multi-role fighter of the future for the Air Force, the Navy and the Marines. And it includes $1.3 billion for the procurement of 11 MV–22 Osprey aircraft for the Marine Corps, and $559.4 million for research and development for the Navy, Air Force and Special Operations Command versions of this vital aircraft.

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

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

For that reason, I urge the adoption of this rule and of this bill.

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

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

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

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

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

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

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

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

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

For the very reason that we are fighting terrorism, Mr. Speaker, I believe it is necessary to support this legislation; but I hope that we will have, as the Congress continues, the opportunity to reassess the direction in which we go.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I thank the Member for yielding me the time. I want to also thank the ranking member, the chairman of the committee, and the membership of the committee for their fine work. I think that they have, under very difficult circumstances, gone about doing the work that is important to the country and uniting the country and making sure that the country is protected.

What I am concerned about is that this House has continually stood up and voted against any additional base closure commissions. I recognize that there is the possibility of a recommittal motion which will be able to be addressed, but I also notice that there may not be any time to be able to have that discussion. I know that the House has stood firm and negotiated in very difficult circumstances to be able to make what they felt was a very important effort in this regard. But having been a part of a process in 1995 and witnessing it firsthand and also being able to watch it and participate in another instance back in 1988 in that process and then recognizing that we may not have gained the savings that were supposed to be gained, and then also at the same time recognizing that a lot of the communities that were left behind were truly left behind, there was no additional resources for environmental or community cleanup. Once the facility was closed, that was it; and we were left as communities to have to struggle with that.

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

I wanted to register that concern about this product. I recognize that there is an awful lot here for pay raises. Our troops need the pay raises, and I noticed that health care and other issues have been taken.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. UDALL).

(Mr. UDALL of Colorado asked and was given permission to revise and extend his remarks.)

Mr. UDALL of Colorado. I thank the gentleman for yielding me this time.

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

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

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

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

When Congress enacted the RECA law, we promised to pay compensation for their illnesses. But we have not fully kept that promise. We have been slow to appropriate enough money to pay everyone who is entitled to be paid. As a result, too often the Department of Justice has had to send people letters saying that while they are entitled to the money Congress promised, their payments would have to wait until Congress made good on its word. I think that should not happen again.

That is why I have joined in sponsoring legislation to make these RECA payments completely automatic. The conference report does not quite do that, but it does provide mandatory funds for paying RECA claims through 2011, subject to certain limits. I do not know if the limits set in the conference report will be adequate, but it is important that we act now to reduce the chance that more people will be sent IOUs instead of the money to which they are entitled.

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

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

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

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

The Rocky Flats facility made some significant contributions to our nation's security and the economies of local communities. The language of this provision includes a strong acknowledgment of that history and legacy. Its mission has shifted from weapons production to cleanup, and looking toward the completion of the process I recognized a need and an opportunity for another new mission—to preserve the open spaces and wildlife habitat that has remained relatively untouched behind security fences and guard shacks.

That is why in 1999 I proposed that the site remain in federal ownership as open space. And when after that there was a suggestion of converting the site to a national wildlife refuge, I supported that approach because it was consistent with the principles of federal ownership, open space and habitat protection, and thorough, effective cleanup.

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

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

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

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

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

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

With regard to water rights, the legislation protects existing easements and allows water rights holders access to perfect and maintain their rights. With regard to mineral rights, the Secretaries of Energy and Interior, through the MOU, are directed to work together to address any potential impacts associated with these rights on the refuge. Finally, with regard to power lines and the proposal to extend a line from a high-tension line that currently crosses the site, the legislation preserves the existing rights-of-way for these lines and allows the construction of one power line from an existing line to serve the growing region northwest of Rocky Flats. The DOE is presently working with Xcel to locate the final alignment for this power line extension to the site's eastern boundary.

Fifth, the Rocky Flats Cold War Museum. The legislation authorizes the establishment of a museum to commemorate the Cold-War history of the work done at Rocky Flats. Rocky Flats has been a major facility of interest to the Denver area and the communities that surround it. Even though this facility will be cleanup and closed down, we should not forget the hard work done here, what role it played in our national security and the mixed record of its economic, environmental and social impacts. The city of Arvada has been particularly interested in this idea, and took the lead in proposing inclusion of such a provision. However, a number of other communities have expressed interest in also being considered as a possible site for the museum. Accordingly, the legislation provides that Arvada will be the location for the museum unless the Secretary of Energy, after consultation with relevant communities, decides to select a different location after consideration of all appropriate factors such as cost, potential visitation, and proximity to the Rocky Flats site.

Finally, cleanup levels. Some concerns were expressed that the establishment of Rocky Flats as a wildlife refuge could result in a less extensive or thorough cleanup of contamination from its prior mission that otherwise would occur. Of course, that is not the intention of this legislation. The legislation ensures that the cleanup is based on sound science, compliance with federal and state environmental laws and regulations, and public acceptability.

Specifically, the cleanup is tied to the levels that will be established in the Rocky Flats Cleanup Agreement (RFCA) for soil, water and other media following a public process to review and reconsider the cleanup levels in the RFCA. In this way, the public will be involved in establishing cleanup levels and the Secretary of Energy will be required to conduct a thorough cleanup based on that input.

In addition, and very importantly, the legislation specifies that the establishment of the site as a wildlife refuge cannot reduce the level of cleanup—thereby establishing that the wildlife refuge designation establishes a minimum standard for cleanup while still allowing for more extensive cleanup and removing any possibility of a lesser cleanup based on use of the lands for a wildlife refuge.

Mr. Speaker, I want to express my thanks to Senator ALLARD for his outstanding cooperation in drafting this important legislation. I am very appreciative of his contributions and those of his staff and look forward to implementing this provision.

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

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

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

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

Requires DOE and the U.S. Fish and Wildlife Service to enter into a Memorandum of Understanding within 18 months after enactment to address administrative issues and make preparations regarding the future transfer of the site to the Fish and Wildlife Service and to divide responsibilities between the agencies until the transfer occurs; provides that the cleanup funds shall not be used for these activities.

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

Describes the land and facilities that will be transferred to the Fish and Wildlife Service (most of the site) and the facilities that will be excluded from transfer (including any cleanup facilities or structures that the DOE must maintain and remain liable for);

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

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

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

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

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

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

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

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

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

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

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

Recognizes the existence of other property rights on the Rocky Flats site, such as mineral rights, water rights and utility right-of-way; preserves these rights and allows the rights holders access to their rights.

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

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

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

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

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

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

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

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

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

The leadership told us they did not believe us when we said the fire services needed this money desperately. Boy, were they wrong. Of the 32,000 fire departments in this country, over 19,000 of them applied for these grants, totaling up to $3 billion in requests. I am a bit chagrined that we are still scraping and begging the appropriators

for a measly $150 million in view of the problem. But I tell you, we will take it.

Trust me, you will be hearing from all of the fire departments in your districts around the country, both career and volunteer. The odds are that all of us have a few fire departments at home that will not get a grant this year because there was not enough money. Next year, I bet we will not be begging and scraping. Next year I bet we will be a lot closer to our newly authorized funding level of $900 million, because there are few heroes in our lives, people who put their necks on the line day in and day out to keep us safe. That is what we are doing here today. We are giving back to those heroes.

□ 1115

I know our contribution to this worthy cause will continue to rise as each of you hears from your own constituents about the need for more fire personnel, more safety equipment and vehicles.

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

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

Mr. Speaker, this is a good piece of legislation. This is the House of Representatives operating on a bipartisan basis at its highest level. I urge adoption of this rule and adoption of this conference report.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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

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

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

The SPEAKER pro tempore. The gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

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

Mr. Speaker, I am pleased to bring before the House the conference report on the fiscal year 2002 Defense Authorize Act.

This legislation results from almost 2 months of intense conference activity resolving hundreds of issues in disagreement with the Senate. It is fair to say that this conference report represents the ultimate compromise, as it has something in it to disappoint virtually everyone involved.

But, that is the nature of this process. You win some, you lose some, and others you try to find a middle ground. The important point, however, is that we have been able to reach an agreement that, in the aggregate, is a good bill and deserves the support of the House.

This bill stays true to the bipartisan and bicameral goal of all conferees, protecting the welfare of our fighting men and women during this time of crisis and providing the President and Secretary of Defense the needed tools to accomplish their difficult mission.

Over the strong reservation of many House Members, including myself, we have agreed to authorize a round of base closures, but not until 2005. We have ensured that the next round of BRAC will stay focused on the overriding objective of enhancing the military posture of the United States and not blindly saving pennies or cutting political deals.

The bill also places the decision process on the thorny issue of Naval training on the island Vieques back where it belongs, in the hands of the Navy officials and out of the political realm.

This conference report also arrives at a good solution on how to proceed with the critical development of a ballistic missile defense system. The agreement provides the President with the option to spend the full amount requested on this important program.

Finally, the bill authorizes the most generous pay raise in 20 years and provides a number of other enhancements of benefits for our men and women in uniform and their families.

Mr. Speaker, at this moment, halfway around the globe, thousands of sons and daughters are engaged in a noble cause against the forces of evil and intolerance. Our job is to support them and provide them with the necessary resources and tools to successfully accomplish this task and ensure that they are safely returned to their families.

The bill provides for all of those goals, and I commend it to my colleagues for support.

Before concluding, I want to briefly express my thanks to all the conferees who have worked so hard on these issues and in particular, my friend and partner, the gentleman from Missouri (Mr. SKELTON), who has shared my firm commitment to ensuring that this bill and the interests of the troops were not sacrificed due to the political difficulties we have faced this year.

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

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

Mr. Speaker, I rise in strong support of S. 1438, the National Defense Authorization Act for fiscal year 2002. I will explain why in a moment, but first let me compliment my friend, the gentleman from Arizona, on the truly outstanding job he did in shaping the conference report. This is the maiden voyage of the gentleman from Arizona (Mr. STUMP) as chairman of the Committee on Armed Services, and the seas were far from smooth. Many of the issues that faced us were particularly difficult for him personally. But I applaud his leadership, and I thank him, and I recognize that the totality of the bill is more important. When our country is at war, he handled that extremely well, and let me thank him publicly for that.

Mr. Speaker, the fact that we are considering this bill today reflects the commitment of the Committee on Armed Services members that we must provide for the men and women of our military when they are sacrificing in so many ways to defend our wonderful country. They are depending on us. We cannot let them down.

Let me cite a few examples. This bill provides a pay raise of at least 5 percent for officers and 6 percent for enlisted personnel, with targeted raises up to 10 percent for some ranks. Without this bill, our troops will not get any pay raise. This bill authorizes $10.7 billion for military construction and family housing. Without this bill, badly needed improvements to the housing for our service men and women and their families will not be made. For these reasons alone, it is imperative that we pass this bill today.

Other features of the bill are just as important. For instance, the bill authorizes over $60 billion for procurement and weapons systems modernization. It includes $1 billion for chemical and biological research to ensure that our citizens may be protected against terrorist attacks in the future. The bill focuses on homeland security and authorizes $2.7 billion to train and equip local first responders to improve their ability to respond total terrorist incidents. Finally, the bill funds the operations and maintenance activities of the Department of Defense.

I am not delighted with the outcome of every issue. Far from it. But the point I would make to every Member of this House is that this legislation is vitally important. Our troops need the authorizations in this bill. They are fighting a war.

This bill makes great strides in improving America's security. It reviews the period since September 11 to enhance our military's ability to respond to the new, less-conventional threats that we face. I said 3 months ago that we have been at war for some time, and the difference after September 11 was that now everybody knows it.

Mr. Speaker, this conference report is not perfect. We spend a little less for procurement than I might like, and although we do add funds above the President's request and the provisions on missile defense, Vieques and base closure are not what I might have written on my own, the gentleman from

Arizona (Chairman STUMP) and I agree that the good things in this report far outweigh the others.

This bill moves the military substantially toward new ways of fighting. It helps the Army and Marine Corps move faster, increases the Air Force's qualitative edge, and the pay raise is just the most basic part of our comprehensive improvements in quality of life for America's finest.

Now, more than any time in the last decade, it is essential that this House speak with one voice. Americans are under fire. This vote will not be seen only in Kabul and Baghdad, but Diego Garcia, Fort Irwin, Norfolk and Whiteman Air Force Base. Americans are under fire. Let us give them this support and protection they deserve.

Again, Mr. Speaker, I commend the gentleman from Arizona (Chairman STUMP) for a job well done, and I hope that everyone will vote for this bill.

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

Mr. LARSON of Connecticut. Mr. Speaker, I submit this statement today in support of S. 1438, the National Defense Authorization Act for Fiscal Year 2002. Although I could not be here today during this debate because of a death in my family, I want to say for the record that this is a good bill. It funds the priorities for the nation's military that I have championed since becoming a member of the Armed Services Committee. I want to thank Chairman STUMP and Ranking Member SKELTON for their hard work and leadership during this process.

This bill provides for a five to ten percent pay raise effective January 1, 2001 for the men and women serving in our armed forces. It provides full funding for the Air Force's critical fighter modernization programs, allowing for the procurement of 13 new F–22 fighters and providing over $1.5 billion for additional Joint Strike Fighter research and development. It also provides a $25 million increase for F–15 engine upgrades, and $30 million for F–16 engine upgrades.

It includes number of important Army helicopter modernizations, including over $800 million for the Comanche next generation helicopter, and $10 million for important helicopter engine modifications.

It provides full funding for procurement of a new *Virginia* class attack submarine, and includes over $450 million to begin conversion of 4 ballistic missile submarines to conventional weapon platforms.

I am also pleased to see my colleagues on the committee work so hard to address homeland security issues, providing nearly $7 billion for Homeland Security initiatives within the DOD and DOE. Further, I am pleased to see that the committee increased the existing firefighter grant program from $300 million to $900 million per year through 2004, and expanded the grants to include equipment and training to help firefighters respond to a terrorist or WMD attack. While this increase in funding is critical to addressing the needs of our first responders, I will continue to purse provisions of my legislation, H.R. 3161, the Municipal Preparation and Strategic Response Act, which seeks not only to increase funding in the Firefighter Assistance Program for counter-terrorism training and equipment, but also to repeal the local funding match requirements of the program.

Finally, I support the bipartisan process and the ability of members of the Committee to work so hard to find compromises that address the concerns of all members.

Mr. BLUMENAUER. Mr. Speaker, this conference report makes tremendous progress in strengthening our nations's policies in dealing with unexploded ordnance, the bombs and shells that did not go off as intended. I very much appreciate the efforts Chairman BOB STUMP and Ranking Member IKE SKELTON in raising the profile of this important issue, and including several meaningful reforms to address the problems these discarded military munitions cause communities throughout our country. Our colleagues in the Senate also made valuable contributions and I appreciate their wisdom and hard work. The sections addressing unexploded ordnance are 311, 312, and 312 in the conference report. I hope that the activity on this issue during consideration of this year's defense authorization signals potential for additional steps forward in the future.

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

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

Our annual defense authorization and appropriations bills provide opporutnity to respond to changing global security conditions. This bill authorizes spending $343 billion in fiscal year 2002 on our military. In addition, there is $21 billion defense spending in the $40 billion post-September 11 supplemental and its it highly likely that we will consider at least one other supplemental in 2002. That means that throughout this fiscal year, our military spending will be at least a billion dollars a day.

It has been over three months since the tragedy of September 11. We had the chance to make adjustments in this authorization based on the new security environment. Instead, this conference report increases spending on national missile defense nearly 50 percent over last year. It also continues to fund cold war weapons systems such as the Crusader mobile howitzer designed for a war from an age long past. The Army has said it needs lightweight force that can go anywhere in under 100 hours, yet the Crusader is too heavy to carry on even our largest plane. We need a new beginning now more than ever.

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

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

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

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

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

While I will vote in support of this legislation, I have concerns about two areas addressed by this measure: base closures and missile defense. With regard to base closures, I was disappointed that the Conferees included compromise language originally included in the Senate Defense Authorization bill, which would enact the first round of base closings in

2005. As someone who has consistent record of supporting cost-savings in all areas of the federal budget, I do not believe that another round of base closures should be conducted until the DOD can adequately evaluate and define its military strategy and future requirements. The most prudent course of action would be to allow the military to address its budget given the current realities, and to avoid any actions that might damage military modernization, readiness or personnel requirements.

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

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

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

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

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

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

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

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

This policy is just plain wrong. Military retirees who are also disabled veterans earned, need, and should receive all the benefits to which they are entitled; 379 of us are cosponsors of a bill that says so.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Authorizes the largest military pay raise since 1982—a 5 percent across-the-board increase for officers and a 6 percent across the board for all enlisted personnel, combined with targeted increases—ranging from 6.3 percent to more than 10 percent—for noncommissioned officers and mid-grade commissioned officers.

Increases the defense health operations accounts by $6 billion over fiscal year 2001 levels, reflecting a commitment by DOD and Congress to fully fund health care.

In addition the conference report:

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

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

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

There are many more important measures contained in H.R. 2586. For all these reasons I urge all Members to support the conference report on S. 1438, the National Defense Authorization Act for Fiscal Year 2002.

Mr. POMEROY. Mr. Speaker, I rise in reluctant opposition to the conference report for the defense authorization act. This bill contains many valuable provisions but also one serious flaw—a new round of base closures, which I believe serves neither the best interests of our national security nor the best interest of communities throughout the country that host military installations.

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

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

Second, we should not embark on a new round of base closures when the Armed Forces are still processing the more than 100 closures and realignments undertaken in the previous four rounds. We should not underestimate the upheaval these actions create for our men and women in uniform and their families. Nor should we ignore the impact of these transitions on our military readiness.

Third, it makes little sense to permanently shutter more installations when we are still grappling with the question of how best to match defense resources to the evolving threats to our national security. We are currently engaged in a war against terrorism that the President has said could last for some time. We should leave ourselves the flexibility to meet these new threats by preserving needed basing capacity.

Finally, for host communities, this base closure provision is perhaps the worst-case scenario. By authorizing a new round but postponing it for four years, this bill well cast a long, dark cloud over base communities across the country. The threat of closure stifles new investment, which is especially threatening during these difficult economic times. In North Dakota, despite our well-founded confidence in the long-term future of our bases at Minot and Grand Forks, the specter of base closure will have severe economic impacts for our state.

As I said, this bill contains many positive provisions, including a significant pay raise for our men and women in uniform, needed investments in modernization, and funds to upgrade our infrastructure. I strongly support each of these items, but, because the bill also includes an ill-advised authorization of more base closures, I am compelled to vote ''no.''

Mr. FORBES. Mr. Speaker, it is with a profound sense of sorrow and regret that I rise today in opposition to the conference report for S. 1438. While this bill has many items that deserve passage by the House, I cannot support its call for yet another round of base closures and realignment.

As I have noted in the past, the basic premise behind base closures is not a bad one. If we have excess installations and personnel, then we should not be supporting them with dollars better spent equipping our soldiers and sailors with the very best technology available. But, despite several rounds of base closures and over a decade of time to evaluate them, we have yet to determine that we do have that excess or that we can drain it without costing more than we save.

While I appreciate the hard work and difficult choices that the conferees had to make in forging the BRAC compromise in this conference report, I do not believe that it fully addresses the problems that have been evident in past rounds of base closures. To be certain, the conferees attempted to address questions about the politicization of the process and the true costs savings. However, the procedures that they put in place do little more than offer lip service to these very legitimate concerns.

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

The conferees require the Secretary of Defense to certify that there will be annual cost savings for each service by 2011 before the Commission can be appointed. But, if we have been unable to obtain an accurate accounting over the past 13 years, why should we put faith in this report? People's jobs and communities' economies are on line, and we should not be so cavalier about the consequences of setting this process in motion.

Furthermore, the procedures developed by the conferees put the cart before the horse. By requiring the Secretary of Defense to submit a report on our military's needs and inventories before a Commission can be appointed, the conferees admit that by 2005 they are not even certain that another round of base closures will be necessary. If anything has been made clear both by the Defense Department's work this year on transformation and by the events of the past several months, it is that current events and technology are changing so rapidly that our military must be flexible enough to adapt. But, by voting today to begin down the path to another round of base closures, we give the process momentum that threatens to overcome the true needs of our military.

The mere threat of the possibility of base closures makes our military personnel uneasy about their futures and their families' futures and puts community bond ratings and economic plans at risk. Particularly now that we are engaged in a war against terrorism, we need our installation commanders fully engaged in this effort and not preoccupied with the possibility that their base will be closed or their personnel reassigned. If we are so uncertain as to the necessity of this round of base closures, we should wait to have the vote on BRAC until that need has been demonstrated. In this time of great anxiety about our nation's economy and our global safety, I am not prepared to add to this uncertainty.

Mr. Speaker, I fully realize that there is much to commend itself in this report. For instance, I fully support the authorization for the servicemembers' pay raises, as I did as a member of the Committee and on the House floor. These brave men and women have toiled for years for the cause of freedom, doing more work with fewer resources, and they deserve a pay raise. But, to give these soldiers and sailors pay raises one day, and then uproot their homes and their families the next is simply not fair.

I also support the reduction in out-of-pocket housing costs for military personnel and the improvements in military health care, as well as the provisions preserving our right to seek the best possible training options for our servicemembers by continuing to use the facilities at Vieques. Readiness protects our servicemembers from harm and gives their families some peace of mind. It is far too important to be the subject of a political referendum.

Let me make clear, Mr. Speaker, that I understand that many of my colleagues here today—including some who served in these difficult conference negotiations—are equally displeased with the inclusion of any base closure process, but that they will, in the end, support this report. For my part, I am certain that the BRAC provisions are not in the best interests of Virginia's Fourth District or of our Nation, and I cannot support them. But, I do not question the patriotism or the wisdom of these colleagues.

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

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

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

As a conferee on this bill from the science committees, I want to spend a minute drawing

the House's attention to a program authorized in the bill that, while not in the Defense Department, is nonetheless critical to our security. I am talking about the Assistance to Firefighters Grants Program, which provides help to fire departments throughout the country.

According to the International Association of Fire Fighters, more public safety officers were lost in September 11 attacks than in any other single event in modern history. There is no telling how many lives these brave men and women saved, but it is estimated in the thousands if not tens of thousands.

The Assistance to Firefighters Grants Program, which is administered by U.S. Fire Administration, provides funds to fire departments for training, personnel, protective equipment, communications equipment, and other items. This program is vital to ensuring that our Nation's fire departments are up to the job with which we have entrusted them.

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

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

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

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

Also, to ensure that adequate personnel are available to implement the program, the amendment sets aside three percent of the authorized amount for administration. The Fire Administration should not be made to short change other programs, such as education and training, to administer the grants program.

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

Mr. RAHALL. Mr. Speaker, in my capacity as the Ranking Democrat on the Committee on Resources I was a conferee on the fiscal year 2002 Defense Authorization bill for certain matters within the jurisdiction of my committee, including a provision in the original House-passed version of this legislation dealing with Vieques, Puerto Rico.

Unfortunately, I am withholding my signature from the pending conference report in protest of the manner by which this legislation treats the controversy surrounding U.S. military exercises on Vieques.

In effect, language contained in the pending legislation represents a major retrenchment from agreements between the federal government and Puerto Rico relating to Vieques in current law, as well as positions advanced by the Bush Administration in this area.

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

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

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

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

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

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

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

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

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

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

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

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

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

Certainly, I realize that our world has changed since the terror of September 11th. Every American, whether residing in a State or a Territory, understands how important it is to protect our freedom. And everyone is willing to do his or her part. We seem to have forgotten that Puerto Ricans, also serve in our military, die in our wars, and are just as eager to preserve freedom and democracy. We are taking away from Puerto Ricans the very ideal on which our country was founded and continues to fight for. That is truly unfortunate.

Mr. ORTIZ. Mr. Speaker, I thank the gentleman for yielding.

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

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

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

areas that have been neglected for a number of years . . . the readiness of our dedicated civilian employees and the modernization of our failing infrastructure.

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

Mr. Speaker, while I have expressed strong support for the readiness provisions in this bill, I still have reservations about some other portions of S. 1438. Specifically, I think the BRAC provisions are ill-timed and costly. We are approving these BRAC provisions at a time when the nation is at war and the economy is in bad shape. Funds that could be used to improve readiness will have to be diverted to begin the costly preparations for BRAC considerations. Based on our past experiences, once an installation is identified as a candidate for BRAC consideration, resources have been diverted, resulting in further degradation of the installation prematurely. We are all aware that historically preparations for BRAC rounds have had a devastating effect on the morale and performance of the civilian workforce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Second, I originally proposed this language because I wanted to ensure that concurrent receipt language was included in the Fiscal Year 2002 authorization act. In previous years when language has been included in the Senate versions of the authorization bill and no language was included in the House bill, the Senate has receded to the House, meaning no language was enacted into law.

By authorizing the concurrent receipt of military retired pay and VA disability compensation now, we are one step closer to repealing the offset once and for all. Next year, I will be working with my colleagues to secure the enactment of legislation to fund the concurrent receipt of military retired pay and VA disability compensation.

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

I urge my colleagues to support S. 1438.

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

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

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

I will not delve into a full explanation or defense of the program here. Frankly, debate over FPI should not even take place within the context of a defense bill. Debate over FPI has always been spirited. However, it is a debate that I welcome and one that I expected to participate in as a member of the Judiciary Committee. But that right has been denied to me and my fellow Judiciary Committee members.

I appreciate and thank Chairman STUMP for his efforts to work with me on this issue. His indulgence over last couple of months was more than I could have asked for. Unfortunately, the die was cast on this issue, and we were unable to remove this language.

As I stated, FPI is a Justice Department program. I, along with many of my colleagues on the Judiciary Committee, feel very strongly that our committee should review any change to the FPI program. Sadly, the most dramatic reforms to FPI in its history will occur without the input of just about every member of the Judiciary Committee.

Mr. Speaker, I am including, for the record, a copy of a memorandum from the chief operating officer of FPI and a letter from the Justice Department. The FPI memo details the destructive effects the language in S. 1438 is already having on the program. In the DoJ letter, the department clearly states its strong opposition to this language. I request that both items be made a part of the RECORD.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 30, 2001.

Hon. MARK GREEN,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN GREEN: This is in response to your letter of November 26, 2001 regarding Section 821 of the Fiscal Year 2002 Defense Authorization Bill. The Department of Justice agrees with your concerns regarding Section 821. Indeed, the Department has been actively engaged in educating Congressional Members on this important issue. On September 25, 2001 we sent a letter to the Senate Leadership and Senate Judiciary Committee and, on November 13, 2001, a letter to all Defense Authorization Conferees about our significant concerns regarding the effect of Section 821 upon Federal Prison Industries (FPI). As you point out in you letter, the bill as drafted fails to recognize the contribution of this important correctional program to the safe and effective administration of Federal prisons, and as a tool for reducing recidivism by preparing inmates to lead productive, law abiding lives upon their return to society.

While our continued efforts have met with little success, we remain in support of removal of Section 821 from the Conference Report. Moreover, we believe that any future consideration of FPI reform should be the purview of the House and Senate Judiciary Committees, the committees with jurisdiction over Department of Justice programs.

If you have any questions or if we may provide you further information, please feel free to contact the Department.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF PRISONS,
Washington, DC, November 26, 2001.

Memorandum for Kathleen Hawk Sawyer, Director Federal Bureau of Prisons & Chief Executive Officer of Federal Prison Industries

From: Steve Schwalb, Chief Operating Officer Federal Prison Industries

I am writing to advise you of the initial effects of the Defense Authorization language on FPI recently adopted by the Senate.

Even though the final language, as of this date, has not been adopted by the conferees, numerous customers report to us that they have received calls, e-mails, faxes and personal visits from office furniture vendors and their dealers on this legislative language. Our customers report being told, ''FPI's mandatory source has been eliminated'', ''federal agencies no longer have to buy from FPI'', and that ''customers can now buy directly from commercial vendors without considering FPI.''

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

The result has been that many of our customers now feel, mistakenly, that changes are already in effect and that procedures for buying from or considering products offered by FPI have been altered. Several customers have indicated that they are going to hold up on making any purchase decisions while they get more information that address their confusion.

This is only the beginning of what we can expect to be an aggressive, and often inaccurate, campaign by the private sector to confuse, persuade or otherwise present to our customers information which puts us and our products in the worst light possible. As you know, all the big furniture companies have previously provided extensive training to their commercial sales staff on how to write, for the federal customers, waiver requests to FPI, so as to specify those commercial company's unique product features as ''must have'' items, thereby justifying a waiver from FPI's mandatory source. If language regarding purchases from FPI is adopted into final legislation, there is no doubt that we will see the efforts by the furniture companies intensify.

The results of these initial efforts have been the suspension or delay of some orders and the placement of other orders directly with the private sector without customers following the requirement to contact FPI first to see if our products will meet their needs. Although it is too early to accurately quantify the effects, there is no doubt that we will see a significant decline in future office furniture orders. Since DOD represents 65% of our furniture sales, a significant reduction in orders from DoD will have devastating consequences for us. Depending on how significant the decline is, it undoubtedly will affect our ability to support the capacity we currently have and will cause us to reduce our staff and inmate employment in several of our furniture factories. In turn, this will also affect our raw material purchases from the numerous vendors we rely on for our production.

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

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

The previous question was ordered.

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

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

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

The Sergeant at Arms will notify absent Members.

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

[Roll No. 496]

YEAS—382

Abercrombie	Brady (TX)	Cunningham
Ackerman	Brown (FL)	Davis (CA)
Aderholt	Brown (SC)	Davis (FL)
Akin	Bryant	Davis (IL)
Andrews	Burr	Davis, Tom
Armey	Burton	Deal
Baca	Buyer	DeGette
Bachus	Callahan	DeLauro
Baird	Calvert	DeLay
Baker	Camp	DeMint
Baldwin	Cannon	Deutsch
Ballenger	Cantor	Diaz-Balart
Barcia	Capito	Dicks
Barr	Capps	Dingell
Barrett	Capuano	Doggett
Bartlett	Cardin	Dooley
Barton	Carson (IN)	Doolittle
Bass	Carson (OK)	Doyle
Becerra	Castle	Dreier
Bentsen	Chabot	Duncan
Bereuter	Chambliss	Dunn
Berkley	Clay	Edwards
Berman	Clayton	Ehlers
Berry	Clement	Ehrlich
Biggert	Clyburn	Emerson
Bilirakis	Coble	Engel
Bishop	Collins	Eshoo
Blagojevich	Combest	Etheridge
Blunt	Condit	Evans
Boehlert	Cooksey	Everett
Boehner	Costello	Farr
Bonilla	Cox	Fattah
Bonior	Coyne	Ferguson
Bono	Cramer	Flake
Boozman	Crane	Fletcher
Borski	Crenshaw	Foley
Boswell	Crowley	Ford
Boucher	Culberson	Fossella
Brady (PA)	Cummings	Frelinghuysen

Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wolf
Wynn
Young (FL)

NAYS—40

Allen
Baldacci
Blumenauer
Boyd
Brown (OH)
Conyers
Davis, Jo Ann
DeFazio
Delahunt
Filner
Forbes
Frank
Holden
Holt
Jackson (IL)
Kanjorski
Kucinich
Lee
Lewis (GA)
McDermott
McKinney
Meeks (NY)
Miller, George
Miller, Jeff
Nadler
Owens
Pallone
Paul
Payne
Pomeroy
Rangel
Schakowsky
Smith (NJ)
Stark
Tierney
Towns
Velazquez
Wilson
Woolsey
Wu

NOT VOTING—11

Cubin
English
Gonzalez
Hostettler
Larson (CT)
Luther
Meehan
Meek (FL)
Olver
Quinn
Young (AK)

□ 1150

Messrs. BALDACCI, MCDERMOTT, HOLDEN, KANJORSKI, PALLONE, and DEFAZIO, Ms. MCKINNEY, Messrs. WU, BOYD, TIERNEY, and OWENS, Ms. VELAZQUEZ, Mr. TOWNS, Ms. WOOLSEY, and Mr. MEEKS of New York changed their vote from ''yea'' to ''nay.''

Mr. WAXMAN and Mr. BISHOP changed their vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LARSON of Connecticut. Mr. Speaker, I unfortunately was required to attend a funeral in my Congressional District today and missed rollcall Vote No. 496. Had I been present and voting, I would have voted ''aye''.

GENERAL LEAVE

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

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentleman from Arizona?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 25. Concurrent resolution expressing the sense of the Congress regarding tuberous sclerosis.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1499. An act to amend the District of Columbia College Access Act of 1999 to permit individuals who graduated from a secondary school prior to 1998 and individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school to participate in the tuition assistance programs under such Act, and for other purposes.

DIRECTING SECRETARY OF THE SENATE TO MAKE TECHNICAL CORRECTION IN ENROLLMENT OF S. 1438, NATIONAL DEFENSE AUTHORIZATION ACT FOR 2002

Mr. STUMP. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 288) directing the Secretary of the Senate to make a technical correction in the enrollment of S. 1438.

The Clerk read the title of the concurrent resolution.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 288

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, the Secretary of the Senate shall make the following correction:

Strike section 1212 and insert the following:

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

(a) ELIGIBILITY OF FRIENDLY FOREIGN COUNTRIES.—Section 2350a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' after ''(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—'';

(B) by striking ''major allies of the United States or NATO organizations'' and inserting ''countries or organizations referred to in paragraph (2)''; and

(C) by adding at the end the following new paragraph:

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

''(A) The North Atlantic Treaty Organization.

''(B) A NATO organization.

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

''(D) A major non-NATO ally.

''(E) Any other friendly foreign country.'';

(2) in subsection (b)(1)—

(A) by striking ''its major non-NATO allies'' and inserting ''a country or organization referred to in subsection (a)(2)''; and

(B) by striking ''(NATO)'';

(3) in subsection (d)—

(A) in paragraph (1), by striking ''the major allies of the United States'' and inserting ''countries and organizations referred to in subsection (a)(2)''; and

(B) in paragraph (2)—

(i) by striking ''major ally of the United States'' and inserting ''country or organization referred to in subsection (a)(2)''; and

(ii) by striking ''that ally's contribution'' and inserting ''the contribution of that country or organization'';

(4) in subsection (e)(2)—

(A) in subparagraph (A), by striking ''one or more of the major allies of the United States'' and inserting ''any country or organization referred to in subsection (a)(2)'';

(B) in subparagraph (B), by striking ''major allies of the United States or NATO organizations'' and inserting ''countries and organizations referred to in subsection (a)(2)'';

(C) in subparagraph (C), by striking ''major allies of the United States'' and inserting ''countries and organizations referred to in subsection (a)(2)''; and

(D) in subparagraph (D), by striking ''major allies of the United States'' and inserting ''countries and organizations referred to in subsection (a)(2)'';

(5) paragraphs (1)(A) and (4)(A) of subsection (g), by striking ''major allies of the United States and other friendly foreign countries'' and inserting ''countries referred to in subsection (a)(2)'';

(6) in subsection (h), by striking ''major allies of the United States'' and inserting ''member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries''; and

(7) in subsection (i)—

(A) in paragraph (1), by striking ''major allies of the United States or NATO organizations'' and inserting ''countries and organizations referred to in subsection (a)(2)'';

(B) by striking paragraph (2); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) NOTICE-AND-WAIT REQUIREMENT.—Subsection (a) of such section is further amended by adding at the end the following new paragraph:

''(3) If such a memorandum of understanding (or other formal agreement) is with a country referred to in subparagraph (E) of paragraph (2), such memorandum (or agreement) may go into effect only after the Secretary submits to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report with respect to the proposed memorandum (or agreement) and a period of 30 days has passed after the report has been submitted.''.

(c) DELEGATION OF AUTHORITY TO DETERMINE ELIGIBILITY OF PROJECTS.—Subsection (b)(2) of such section is amended by striking ''to the Deputy Secretary of Defense'' and all that follows through the period at the end and inserting ''to the Deputy Secretary of Defense and to one other official of the Department of Defense.''.

(d) REVISION OF REQUIREMENT FOR ANNUAL REPORT ON ELIGIBLE COUNTRIES.—Subsection (f)(2) of such section is amended to read as follows:

''(2) Not later than January 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report specifying—

''(A) the countries that are eligible to participate in a cooperative project agreement under this section; and

''(B) the criteria used to determine the eligibility of such countries.''.

(e) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries''.

(2) The item relating to such section in the table of sections at the beginning of subchapter II of chapter 138 of title 10, United States Code, is amended to read as follows:

''2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries.''.

SEC. 1213. COOPERATIVE AGREEMENTS WITH FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS FOR RECIPROCAL USE OF TEST FACILITIES.

(a) AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations

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

''(b) PAYMENT OF COSTS.—A memorandum or other agreement under subsection (a) shall provide that, when a party to the agreement uses a test facility of another party to the agreement, the party using the test facility is charged by the party providing the test facility in accordance with the following principles:

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

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

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

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

''(d) RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

''(e) DEFINITIONS.—In this section:

''(1) The term 'direct cost', with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

''(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

''(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

''(i) the use; or

''(ii) the maintenance of the test facility for purposes of the use.

''(2) The term 'indirect cost', with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

''(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

''(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

''(3) The term 'test facility' means a range or other facility at which testing of defense equipment may be carried out.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations.''.

SEC. 1214. SENSE OF CONGRESS ON ALLIED DEFENSE BURDENSHARING.

It is the sense of Congress that—

(1) the efforts of the President to increase defense burdendsharing by allied and friendly nations deserve strong support; and

(2) host nation support agreements with those nations in which United States military personnel are assigned to permanent duty ashore should be negotiated consistent with section 1221(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 1541(a)(1)), which sets forth a goal of obtaining from any such host nation financial contributions that amount to 75 percent of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation.

Subtitle C—Reports

SEC. 1221. REPORT ON SIGNIFICANT SALES AND TRANSFERS OF MILITARY HARDWARE, EXPERTISE, AND TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.

Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 781; 10 U.S.C. 113 note) is amended by adding at the end the following new subsection:

''(d) REPORT ON SIGNIFICANT SALES AND TRANSFERS TO CHINA.—(1) The report to be submitted under this section not later than March 1, 2002, shall include in a separate section a report describing any significant sale or transfer of military hardware, expertise, and technology to the People's Republic of China. The report shall set forth the history of such sales and transfers since 1995, forecast possible future sales and transfers, and address the implications of those sales and transfers for the security of the United States and its friends and allies in Asia.

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

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

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

''(C) Significant assistance by any selling state to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of advanced conventional weapons, and programs for development of unconventional weapons.

''(D) The extent to which arms sales by any selling state to the People's Republic of China are a source of funds for military research and development or procurement programs in the selling state.

''(3) The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2)—

''(A) an assessment of the military effects of such sales or transfers to entities in the People's Republic of China;

''(B) an assessment of the ability of the People's Liberation Army to assimilate such sales or transfers, mass produce new equipment, or develop doctrine for use; and

''(C) the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.''.

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

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

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

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

(1) The benefits derived by each foreign country or international organization from the receipt of defense articles, defense services, or military education and training provided after December 31, 1989, pursuant to the drawdown of such articles, services, or education and training from the stocks of the Department of Defense under section 506, 516, or 552 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j, or 2348a) or any other provision of law.

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

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

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

(b) REPORTS.—(1) Not later than April 15, 2002, the Comptroller General shall submit to Congress an interim report containing the results to that date of the study conducted under subsection (a).

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

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

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

The Clerk read the resolution, as follows:

H. RES. 314

Resolved, That it shall be in order at any time on the legislative day of Wednesday, December 19, 2001, for the Speaker to entertain motions that the House suspend the rules, provided that the object of any such motion is announced from the floor at least one hour before the motion is offered. The Speaker or his designee shall consult with the minority Leader or his designee on the designation of any matter for consideration pursuant to this resolution.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

(Mr. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 314 is a rule providing for the consideration of motions to suspend the rules at any time on the legislative day of Wednesday, December 19, 2001.

The rule further provides that the object of any motion to suspend the rules should be announced from the floor at least 1 hour prior to its consideration, and that the Speaker or his designee will consult with the minority leader or his designee on any suspension considered under the rule.

It is a fair rule, Mr. Speaker. It will allow for the consideration of important legislation. I would urge my colleagues to support this straightforward, hopefully noncontroversial, rule.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under rule XV of the House rules, bills may be considered on the House floor under suspension of the rules only on Mondays and Tuesdays, and this resolution will permit bills to be considered under suspension of the rules on Wednesday, December 19.

This special rule is open-ended. It authorizes the Republican House leadership to bring up any bill under suspensions of the rules. Other special rules considered during this Congress to create new suspension days covered only specific measures.

Mr. Speaker, I am concerned that this rule requires only 1 hour's notice before bringing up a bill under suspension.

Mr. Speaker, as we all know, during the last moments of a session when Members are rushing to wrap up the year's business, it is easy to make mistakes. It is also easy to take shortcuts that undermine the deliberative process and restrict the rights of the minority. Under these circumstances, 1 hour's notice is simply not enough time.

Towards the end of the session in 1999, the House passed an open-ended suspension rule that required at least 2 hours. Near the end of the session in 1998, the House also passed an open-ended suspension rule that required at least 2 hours. I fail to see why this rule should require only 1 hour's notice.

For this reason, I must reluctantly oppose the rule.

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

Mr. DIAZ-BALART. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

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

The point of no quorum is considered withdrawn.

□ 1200

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

Ms. PRYCE of Ohio. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 315 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 315

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

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

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), my colleague and friend, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 315 is a standard rule waiving all points of order against the conference report to accompany H.R. 1, the No Child Left Behind Act of 2001. The rule also waives all points of order against its consideration.

Mr. Speaker, today we take an historic leap forward on behalf of our children, parents and teachers across this great Nation. While lately, the attention of Americans has been focused on the war on terror, the Congress has continued to focus its attention on our Nation's most precious resource, our children. This conference report does just that and recognizes that investing in our children today will prepare them for the challenges of tomorrow.

The Committee on Education and the Workforce, assigned the demanding task of reforming our Nation's failing Federal education policy, has reported back a conference report that we all can and should support. I am pleased to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

For the first time, Congress is giving teachers the resources for training, support and mentoring that they need to reach the goals. Many of us were concerned that the administration failed to request any significant increase in funding to back up the broad outline of the President's for reform.

It is now my understanding that labor HHS appropriations bill which will be considered shortly will provide nearly $4 billion more in funding for all elementary and secondary education programs funded by the Federal Government, nearly a 20 percent increase in appropriations.

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

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

Finally, Congress will back up our commitment with a set of unambiguous expectations, time lines and resources and accountability will be a

part of it. I am really pleased to support this rule and this bill.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield 4 minutes to my distinguished colleague, the gentleman from Georgia (Mr. ISAKSON), a member of the Committee on Education and the Workforce and someone very instrumental in the good work that has gone into this bill.

Mr. ISAKSON. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRYCE) for her leadership and for yielding me time. I thank the Members on both sides of the aisle for the words that have been spoken and will be spoken about No Child Left Behind.

A year ago next Friday, then President-elect George Bush invited 16 members of House and Senate, Republicans and Democrats, all members of the Committee on Education and the Workforce. He expressed his vision for No Child Left Behind, and then did what is so exemplary of our President. He asked all of our opinions on what we thought. And it was from that basis that House Resolution 1 was introduced about 12 months ago and we began the work which results today in the final conference committee report on No Child Left Behind.

Everyone had a chance to have their say. Every issue of importance had its chance to have a vote. And in the end, bipartisanship prevailed and the interests of the America's poorest students most in need has been met, and, in fact, I believe exceeded beyond the wildest dreams of me or our President or the other members some 12 months ago.

Mr. Speaker, I am very fortunate. I was born to a loving mother and father who nurtured me and made education important, who gave me the resources and the discipline and made the demands to ensure that I learned to read and to write. I owe them very much. On the other hand, I also recognize I owe very much to those who were not nearly as fortunate as I was.

No one should mistake what this bill is all about. It is about seeing to it that those who are the most disadvantaged, those who are the most poor, those who are the most at risk are given the resources and the institutions that teach them the accountability to ensure that they are not left behind, that they can read, that they can compute, that they can graduate, and they can realize the American dream.

While someone may nitpick over something they did not get in this bill, every child in America and every American taxpayer is getting the benefit of a better, more intelligently, more proud and more self-assured population in the future because we will leave no child behind. And today this Congress will adopt the dream of this President in his most important promise of his campaign just a year ago.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, I rise in support of the rule and of the conference report. The work that has been done on this bill by the President, by the leaders of our efforts, the gentleman from Ohio (Chairman BOEHNER) and the ranking member, the gentleman from California (Mr. MILLER) are to be commended, as well as the efforts of Senator KENNEDY and Senator GREGG.

We will hear more about the overall themes of this bill during the general debate. I wanted to extend my appreciation to these leaders for including in this legislation two initiatives which have great importance to me that I have worked on throughout this process. The first is a provision that will permit for the first time Title IV money to be used to broaden prekindergarten opportunities for 3, 4 and 5 year olds across the country.

The evidence is overwhelming that children who receive a high quality prekindergarten education perform better throughout their school careers and throughout their lives. For the first time, because of the inclusion of this provision, we will be able to reach more children.

Second, we have had an epidemic of school violence in our country which we all regret. One of the ways that has been proven successful to deal with school violence is peer mediation programs among students. Because of a provision that is in this bill, we have been able to provide for the use of Safe and Drug Free Schools money to promote the use of peer mediation programs among students across the country so they may learn to talk about their differences and resolve them before those differences spill over to bloodshed and violence in our schools.

There are many good things in this legislation. I am appreciative of the cooperation of the bipartisan leadership in including these two initiatives in the bill. I would urge my colleagues to support both the rule and the bill.

□ 1215

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

Ms. SLAUGHTER. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

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

Mr. ROEMER. Mr. Speaker, I thank the gentlewoman for yielding me this time. The poet Shelley once wrote that it is very important that children believe in belief; that children believe in Santa Claus; that children believe that pumpkins can turn into carriages; and that children believe that little elves can whisper into people's ears.

For too long, Mr. Speaker, we have believed that we provide a good, excellent education to all children in this country and that title I helps the disadvantaged. With this bill we shatter and attempt to destroy the myth that poor children cannot learn as well as wealthier children and that we really have targeted resources to help these disadvantaged children over the last 30 years.

This bill, with good people working on a good product, achieving good results in a bipartisan way, has really brought great credit to this institution. And a lot of people deserve credit for that achievement. The gentleman from Ohio (Mr. BOEHNER), our Republican chairman and my classmate, has worked hard on this bill and brought trust to the process; the gentleman from California (Mr. GEORGE MILLER) has fought hard for accountability and new ideas so that poor children can get great teachers; the President brought many of us together in Austin, Texas, and showed passion on this issue; new Democrats helped put together a bill that probably is 65 to 70 percent in this bill, demanding results for the poorest children.

I just want to conclude, Mr. Speaker, and I will talk more on the bill itself later, that this bill, this achievement of good people with good policy brings great credit to the institution of Congress. I wish and pray that this is a model for more of this behavior and these results in future Congresses.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to my distinguished colleague, the gentleman from Florida (Mr. KELLER), a member of the Committee on Education and the Workforce.

Mr. KELLER. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise today as a strong supporter of President Bush's No Child Left Behind Act.

I support this important education reform legislation because it will bring about a meaningful change in what I call the three R's: reading, resources, and red tape relief.

First, I will address the reading issue. A child's success in school, and indeed in life, is dependent on his or her ability to read. Unfortunately, 70 percent of the fourth graders in our inner-city schools cannot read at a basic level. In other words, they cannot read and understand a short paragraph that one would find in a simple children's book.

This legislation addresses that issue head on by investing $5 billion over the next 5 years in reading for children in grades K through 2. That means that next year Federal funds for improving reading will be triple.

The second reason I support this legislation is because this bill represents the single largest investment of Federal dollars in K through 12 education in the history of the United States.

For example, we are investing 43 percent more dollars in education than last year, and we have a 57 percent increase in the amount of money we are investing in title I. This will help to

make sure that all children, rich or poor, will have the opportunity for a first-class education.

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

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

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

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

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

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

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

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

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

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

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

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

PROFESSIONAL DEVELOPMENT

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

That is why I offered two amendments to ESEA that focused on professional development. The first amendment establishes teacher and principal corps, which are designed to recruit, prepare, and support college graduates or mid-career professionals as they begin a teaching career or pursue further professional development to become a principal.

The second amendment I offered develops leadership academies, which will train the best and brightest candidates to become effective educators. The academies will focus their efforts on training current principals and superintendents to become outstanding managers and educational leaders. I am pleased that my colleagues recognize our country's need for strong leadership for our students. It is not only important to have the best principals, but recent reports estimate that 40% of today's principals are eligible to retire in the next five years, and 50% of school districts nationwide are already experiencing a principal shortage.

EDUCATION TECHNOLOGY

Technology is another tool that is critical in educating our youth in the 21st century. Technology, when used effectively, can stimulate learning, enrich lives, and create greater opportunity for our students. All students, regardless of the socioeconomic conditions of their communities or families, should be able to access and use the technology that is driving the New Economy. It is also very important to ensure that our teachers are equipped with the necessary tools and skills to use technology effectively in the classroom. I am pleased that after the initial proposed cuts in funding for technology is ESEA, that the final agreement authorized the education technology program at one billion dollars.

RURAL EDUCATION INITIATIVE

During committee consideration of ESEA, I also worked with several of my colleagues to ensure that ESEA included the Rural Education Initiative. This program authorizes new funding and increased flexibility for rural school districts. Across the nation, many of our rural schools cannot compete for federal education grants because they do not have adequate resources. As a result, many of our students' academic performance suffers.

Furthermore, due to the fact that rural school districts do not lie near population or commercial centers and generally have small staffs, their schools have a harder time attracting personnel and taking advantage of training and technical assistance. Rural schools also frequently face higher costs associated with building infrastructure and upgrading technology.

INDIVIDUALS WITH DISABILITIES IN EDUCATION ACT (IDEA)

Although I am pleased with the ESEA conference report, I am concerned that the government continues to impose federal mandates on the states in the area for special education, while not providing the necessary resources. In addition, these mandates are occurring when many of these states are already facing budget shortfalls.

Since 1975, when IDEA was enacted, Congress told the states they must educate all children with disabilities, regardless of costs. Yet, because educating students with disabilities is typically twice as expensive as educating non-disabled students, Congress made a commitment to the states that the federal government would pay 40% of the cost of educating disabled children. But 26 years later, we have not kept that promise. Congress funds only 15% of the cost of special education.

The financial burden of meeting the costs of this important program falls directly on states and local communities in every congressional district. We have an obligation to ensure that a fundamental and fair educational opportunity exists for all our students, regardless of physical or developmental ability. The lack of adequate funding for special education misses the opportunity to truly leave no child behind.

MANDATORY TESTING

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

will not be required to implement the annual tests. This is troublesome because in the end if there is not enough money to ensure accountability, then it will be the students whole will suffer.

CONCLUSION

Nonetheless, I am pleased with the overall outcome of the conference report and I commend the conference committee for the hard work and dedication over the past couple of months. I am honored to have worked with my colleagues on both sides of the aisle over the past year on this piece of legislation, which is guaranteed to make a difference in the nation's public schools. I find satisfaction in knowing that it is within those public schools back in western Wisconsin and throughout the nation where we will find our future leaders.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER), also a member of the Committee on Education and the Workforce.

Mr. FLETCHER. Mr. Speaker, certainly in response to my colleague who last spoke, let me say that if he looks historically over the last several years in the funding for IDEA, he will find that since the Republicans have taken control of Congress, percentage-wise we have increased the funding for IDEA substantially over what previously had been funded, and I think we are doing a remarkable job as we increase the funding for that.

I also rise to lend my enthusiastic support to President Bush's education reform plan, No Child Left Behind. First, I would like to congratulate the Committee on Education and the Workforce chairman, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentleman from California (Mr. GEORGE MILLER) for this landmark piece of legislation and thank them for nearly one full year of work to produce a true education reform bill. I would like also to thank the conferees, both those in the House and the other body, whose work and support were vital to this bill.

President Bush took office and immediately began his efforts to reform education in America. We tried to reauthorize the Elementary and Secondary Education Act in the 106th Congress; but at that time, because of partisanship, even though we had crafted a good bill under Mr. Goodling, we were unable to overcome that partisanship to get that legislation enacted.

This year, H.R. 1 is not just a good bill, it represents true education reform in America and will begin to correct the shortcomings and failures of the Federal role in education in America since ESEA was first authorized in the 1960s.

We will hear a lot today about funding for education and how important that is and how some Members in this body do not believe there is enough funding for education. I believe we should provide funding for education, and I have supported that idea with my votes here in the House since elected to Congress.

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

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

The President has stated, since taking office, that the Federal role in education is not to serve the system, it is to serve the children. I am glad we have someone in the White House who is willing to hammer home this truth, and I am proud to support this rule and urge my colleagues to vote both for the rule and the passage of the conference report.

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

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman's courtesy.

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

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

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

But I would, if I may, Mr. Speaker, say a word about the gentleman from California (Mr. GEORGE MILLER), our friend from California. He is a man of great passion about a whole range of issues, but he has dedicated years of his life to advancing the interests of America's children. Nobody in this Chamber has worked longer or harder than the gentleman from California, not just publicly in this arena but doing private things. I know that for months he would teach children in an alternative high school before getting on a plane and flying back here to Washington, D.C. Fighting on behalf of America's children and their future is something that has been worth doing. This legislation would not have happened without him.

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

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

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

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentlewoman for this opportunity, and I commend the entire conference committee and staff for their hard work in getting this report, and certainly thank the Committee on Rules for a fair rule.

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

□ 1230

Today's information-driven economy and high-tech industry require workers, not just the specialists, not just the scientists, but the workers to have more math and science and technology skills than ever before. Understanding basic math and science is essential for individual prosperity and our Nation's continued economic growth.

In this bill, we call on our world-class universities to play a greater role in improving the K–12 education, especially in math and science. And through research, through partnerships with local schools to develop better and more rigorous math and science curricula, and fellowships for elementary and secondary teachers, we can improve our math and science education in this country.

I hope this legislation helps to ensure that every child develops the knowledge and skills needed to succeed in the 21st century. I support the rule, and I encourage my colleagues to vote ''yes.''

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

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

I rise to support this rule and this bill and to support this concept. I thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for working together. I thank the committee for working together, the conference for working together. I thank the gentleman from Michigan (Mr. KILDEE), and many others.

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

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

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

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

Mr. OSBORNE. Mr. Speaker, I, too, thank the gentleman from Ohio (Mr. BOEHNER) for his leadership, not only in the committee, but in the conference. It has been a long, arduous task. I also thank the ranking member, the gentleman from California (Mr. GEORGE MILLER), who I think has shown exceptional leadership throughout the process, and to the staff of the Committee on Education and the Workforce which I understand basically has not been to bed for 2–3 days.

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

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

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

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

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

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

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

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

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

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

It is important that each and every one of our students receive the appropriate education, the training, and that we do have accountability. This provides for accountability in our schools. It provides opportunity for parental involvement in our schools which is very important. It is important that our students receive motivation, self-esteem, that they are able to go on. It is with dedicated teachers and accountability. I know because my son, Joe Baca, Jr., is a teacher in secondary schools. My wife has been a substitute teacher for over 20 years. My daughter is a teacher's aide.

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

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

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

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

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

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

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

As I said, I am also most encouraged that this bill is only a part of the

President's vision. I look forward to working with the President and the administration in implementing the remainder of the vision that he outlined to the American people. These important steps, including empowering parents, giving States and schools more flexibility and fully funding our commitment to special education, with these opportunities, the accountability that is outlined in H.R. 1 becomes a reality because information is only useful if parents and schools can act on the information that they receive.

As the President's No Child Left Behind plan originally stated, systems are often resistant to change, no matter how good the intentions of those who lead them. Information and parental empowerment can be the stimulus a bureaucracy needs in order to change. Once these additional steps that the President has outlined are taken, I believe we will have completed the goal of education reform that will give all students a chance to learn and succeed. We will have completed the remainder of the plan and vision of the President that was left behind. Through accountability, through parental empowerment and through flexibility at the State and local level, we will have a plan that will leave no child behind.

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

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

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

Mr. OWENS. Mr. Speaker, I join my colleagues in praising this bill, and I would like to point out a few things. The conference report maintains strong civil right protections prohibiting organizations from discriminating against employee and program participants.

The conference report increases funding for after-school programs by about 18 percent over the amount appropriated last year. Unfortunately, the conference report does not provide increased funding for school construction. School construction and repairs are totally ignored, and that is unfortunate.

H.R. 1 increases support for teachers through increased professional development, mentoring and recruitment. However, the failure to provide greater funding does not relieve local school districts of certain burdens that would allow them to transfer funds into teacher salaries.

We have a serious problem with teachers' salaries in New York City. In Middleton, Connecticut there was a strike by teachers. Members might have seen them humiliated before the television cameras, in handcuffs and prison suits. Those teachers are fighting for a decent health care plan. Teachers should not be held in contempt and treated as if they are at the bottom of the professional ladder. They need decent salaries and benefits.

The testing provisions ensure that States can no longer ignore the academic performance of poor and minority children. That is a big plus. H.R. 1 improves targeting for schools located in underserved communities. The President is to be applauded for interfering with a trend that had taken place to spread out the money and lessen its effectiveness. Title I was originally intended to target poor children in poor districts, and we have returned to that.

The Reading First Program is a great step forward, almost $1 billion to focus primarily on reading in K–3. The conference report includes $250 million for school libraries which shows that we mean business about reading.

Mr. Speaker, this is a good new beginning. President Johnson made a great step forward in this area, and this bill follows in those footsteps. We need more funding and resources for education.

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

□ 1245

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

(Mr. UDALL of Colorado asked and was given permission to revise and extend his remarks.)

Mr. UDALL of Colorado. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I support this rule and the underlying conference report. I am particularly proud of two provisions that the conference committee adopted that I have championed since coming to Congress. I am very happy that the conferees have seen fit to authorize significant increases in funding for after-school programs. In 1999, the gentlewoman from Nevada (Ms. BERKLEY) and I first introduced the After School Education and Anti-Crime Act, a bill to increase funding for after-school programs. Since then, we have worked to see federally funded after-school programs grow from a few million dollars in fiscal year 1999 to today's landmark increase. These funding levels will provide nearly 4 million children in need access to after-school programs by 2007.

I am also proud that the conferees have included in the final report the High Performance Schools Act, a bill I first introduced in 1999. High performance schools are a win for energy savings and a win for the environment, but best of all they are also a win for student performance. A growing number of studies link student achievement and behavior to the physical building conditions.

We have an enormous opportunity, Mr. Speaker, to build a new generation of sustainable schools, schools that incorporate the best of today's designs and technologies and as a result provide better learning environments for our children, cost less to operate and help protect our local and global environment. I am glad that the conferees agreed with me on the importance of this opportunity. I thank them again for including the High Performance Schools Act in H.R. 1. I support the rule and I support the underlying bill.

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

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

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

I am really proud of this bill. This bill not only puts $26.5 billion into education, it provides accountability measures for these Federal dollars. In addition, it gives flexibility to schools on how they spend their Federal dollars. Today's bill includes my amendment that gives our school Federal funds to pay for their own school nurse. Never before have schools been able to use Federal dollars to pay for school nurses. No longer will school districts have to share a nurse.

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

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

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

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 3 minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA), a member of the Committee on Education and the Workforce.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of this conference report. I commend Chairman BOEHNER and Ranking Member MILLER for their leadership and their diligence in bringing this bipartisan bill to us. It is certainly an example of excellent bipartisanship and compromise. Although it has not been an easy process, it shows that we have all agreed that children are the future of our great democracy and the foundation of our global economic leadership. I truly believe that this bill will prove to be landmark legislation. Also, I should commend President Bush for his leadership on this.

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

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

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

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

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

BUSH PLAN

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

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

H.R. 1 dramatically enhances flexibility for local schools. H.R. 1 allows school districts to transfer a portion of their funds among an assortment of ESEA programs as long as they demonstrate results. Every local school district in America will immediately receive the freedom to transfer up to 50 percent of the federal dollars they receive among an assortment of programs. In addition, the bill provides for the establishment of up to 150 local flexibility demonstration projects across the nation. Local school districts choosing to participate would receive a virtual waiver from federal education rules in exchange for signing an ''accountability contract'' with the Education Secretary, in which the school district would agree to improve student achievement.

The conference report provides more state flexibility than the House passed bill. All 50 states would immediately receive the freedom to transfer up to 50 percent of the non-Title I state activity funds they receive from the federal government among an assortment of ESEA programs. In addition seven states would be allowed flexibility in the use of 100 percent of non-Title I federal funds in a variety of categories.

H.R. 1 ENHANCES ACCOUNTABILITY AND DEMANDS RESULTS

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

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

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

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

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

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

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

MENTAL HEALTH PROVISIONS

I am pleased that the final conference report retains important mental health provisions from the House bill. Currently, schools are not adequately equipped to address the mental

health needs of students. Even before September 11, our nation was experiencing an urgent need for school-based mental health services.

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

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

The School Counseling Program directs much-needed federal resources for school-based mental health programs. At the current funding level, 382 schools in 29 states benefit from counseling programs under this provision. It is obvious that many more schools are in need of these funds to provide counseling services to their students. I will work diligently to ensure that funding for this program will grow to meet the mental health needs of our nation's children.

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

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

IDEA MANDATORY FUNDING

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

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

VOTE FOR THE CONFERENCE REPORT

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

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

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

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

The first is that this bill authorizes for the first time a proposal that the gentleman from Indiana (Mr. ROEMER), the gentleman from Delaware (Mr. CASTLE), and myself introduced a couple of years ago called the Transition to Teaching Act which provides a financial incentive for people to consider making a midlife career change into teaching, subject to the same rigorous standards that anybody has to meet to be certified as a teacher in a State. This bill will authorize up to $150 million for that program. Universities, colleges of education, school districts can team up with the private sector to provide this way to deal with our growing crisis in this country as we face the need for over 160,000 new school teachers in my State alone, Florida, and 2.2 million nationally.

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

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

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

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

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

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

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

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

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

Throughout much of the 20th Century, Congress often followed a single formula when addressing domestic problems: take away the

authority of local governments and rely on federal control. In many instances this formula left citizens and communities out of the process and forced federal taxes and spending through the roof. We also know that this formula failed to solve—and often made worse—many of our most serious problems. And yet, despite these lessons, this House is going to apply this same failed formula to public education.

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

The unavoidable consequence of this legislation will be less freedom for school boards, principals, teachers, and parents to decide what is best for their schools. Tests, ordered by federal bureaucrats and crafted by state bureaucrats, will be the dim light guiding our schools. Tests will determine what gets taught, what gets left out, which schools get more funding, and which teachers get raises. All the while, parents and teachers, those most committed to the well being of our children, will be left with their hands tied, interpreting test results published in the newspapers.

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

We are putting power in the wrong place, creating an environment where vindictive behavior can thrive, sterilizing curiosity and creativity and ensuring mediocrity. Competition between schools will not be academically motivated, but rather more politicized.

Whether we are fighting for peace and stability around the globe, trying to create a more productive work place, or attempting to build dynamic research institutions, Americans have learned that one rule predominates: give honorable, hardworking, dedicated humans the freedom to think and create, and they will excel every time. Constant testing is not the answer. Empowering parents, teachers, and principals is. Democracy of the intellect is preferable to an aristocracy of the intellect.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. SOLIS), a member of the committee.

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

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

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

Mrs. BIGGERT. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today to express my support for the rule on H.R. 1, the No Child Left Behind Act of 2001. This bill empowers parents, helps children learn to read at an early age, and grants unprecedented new flexibility to local school districts while demanding accountability.

I would like to focus on two sections of H.R. 1 that have not received as much attention as others. First, I am proud that this legislation authorizes $70 million per year for homeless education. This will have a profound impact on the estimated 1 million homeless children in our Nation. Being without a home should not mean being without an education. This legislation expands our commitment to these special kids who face desperate circumstances.

I am also pleased that this legislation provides $450 million for math and science teacher training. Our new high-tech economy demands that children have stronger math and science skills. That means that teachers also need better training in these areas.

□ 1300

This new program will help teachers prepare better for students for careers in engineering or the hard sciences. This result will be a workforce better able to compete globally. Congress is giving America's teachers and students the best possible holiday present through this legislation. I congratulate the gentleman from Ohio (Chairman BOEHNER) and the conferees for their hard work.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. SUSAN DAVIS).

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

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

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

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

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

Like many of my colleagues and a majority of the Senate conferees, I am disappointed that as we are mandating programs to local school districts and have expressed our intent to fund them adequately, while we have done that, we have failed to phase in funding to meet the commitment Congress made 26 years ago to fund special education. It is particularly ironic that as we have rightly focused H.R. 1 on the needs of the poorest children through Title I, we have failed to recognize that two-thirds of all children with disabilities are also eligible for Title I funds. We must work forcibly next year to meet this promise.

There is much hope in H.R. 1, and I am happy to support this new focus on

the importance of teaching all of our children.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

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

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

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 315, I call up the conference report on the bill (H.R. 1), to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 315, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 13, 2001, Part II.)

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) each will control 30 minutes.

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

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

Mr. Speaker, almost 37 years ago, the Federal Government made a promise to the children of our Nation, a promise that all children, regardless of race, income, faith or disability, would have an equal chance to learn and to succeed. Thirty-seven years later, the Federal Government is still failing to meet that promise, and Republicans and Democrats have come together to say enough is enough. No more false hope for our children, no more broken promises, and no more mixed results.

The legislation before us today lays the foundation for the most significant Federal education reforms in a generation. If properly implemented, these reforms will bring purpose to a Federal law that has lost its focus and never met its promise. It will mean immediate new hope for students in failing schools and new choices for parents who want the best education possible for their children. It will mean new freedom for teachers and school districts to meet higher expectations and give our children the chance to learn and to succeed.

Others before us have renewed this law, and have made similar claims. We must have the courage not just to vote for these reforms today, but to ensure that they are implemented.

This process began nearly a year ago in Austin, Texas, thanks to the leadership and courage of President Bush. It is marked not just by bipartisanship, but by a willingness on the part of those involved to take a gamble on behalf of our poorest students. It has been marked by the courage of legislators on both sides of the aisle to challenge conventional thinking and party orthodoxy for the sake of meaningful change.

I want to acknowledge my partner in this process, the gentleman from California (Mr. GEORGE MILLER). We have many different views and we disagree instinctively on many things, but I would suggest that when it comes to the education of our children, there is no Member of this body who is less content to accept the status quo than the gentleman from California (Mr. GEORGE MILLER). His courage, his honesty and his leadership throughout this process has been instrumental, and, without it, we would not be standing here today.

I also want to thank our colleagues on both sides of the aisle who have worked so hard on behalf of America's students: The gentleman from Delaware (Mr. CASTLE), the gentleman from California (Mr. MCKEON), the gentleman from Georgia (Mr. ISAKSON), the gentleman from Wisconsin (Mr. PETRI), the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentleman from Tennessee (Mr. HILLEARY), and the gentleman from South Carolina (Mr. GRAHAM); and on the Democrat side, let me recognize the contributions of the gentleman from Michigan (Mr. KILDEE), the gentleman from New York (Mr. OWENS), the gentleman from New Jersey (Mr. ANDREWS), the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from Indiana (Mr. ROEMER), all who have been vital to the success of this very important bill.

I know the gentleman from California (Mr. GEORGE MILLER) joins me in giving particular thanks to our staff, who have made incredible sacrifices to bring this bill to completion.

I want to thank Sally Lovejoy of the House Committee on Education and the Workforce majority staff, who has put her heart and soul into this, and her counterpart on the Democrat side, Charlie Barone, who have worked literally 10 times more hours than the gentleman from California (Mr. GEORGE MILLER) and I in putting all of the incredible intricate legislative language together that allows us to be here today.

I also want to thank Danica Petroshius of Senator KENNEDY's staff, Townsend McNitt of Senator GREGG's staff and Denzel McGuire of the Senate HELP Committee, who worked with us day and night over the last year to bring this bill together.

I also want to thank my own committee staff, George Conant, Pam Davidson, Kirsten Duncan, Scott Galupo, Joyce Gates, Kate Gorton, Blake Hegeman, Cindy Herrle, Charles Hokanson, Patrick Lyden, Doug Mesecar, Maria Miller, Paula Nowakowski, Lisa Paschal, Krisann Pearce, Kim Proctor, Ron Reese, Whitney Rhoades, Deborah Samantar, David Schnittger, Kevin Smith, Kathleen Smith, Jo-Marie St. Martin, Linda Stevens, Rich Stombres, Bob Sweet, Holli Traud and Heather Valentine, who all have participated in this very worthwhile project.

Let me also thank the staff of our conferees, James Bergeron, Jeff Dobrozsi on my staff, Jessica Efird, Kara Hass, Mike Kennedy, Lesli McCollum, Janel Prescott and Glee Smith, for all of their efforts.

We are also grateful for the enormous efforts and assistance that we have received from the Secretary of Education, Rod Paige, and his staff at the Department of Education. His expertise as a former superintendent of a major urban school system has been invaluable. Let me also recognize Margaret Spellings and Sandy Kress from the White House staff, who I expect will be here today with us, for the instrumental role that they played in this process.

But, most of all, however, I believe we should recognize the role of our President. Without his courage in proposing these reforms and his courage in continuing to press for them after taking office, none of this would have been possible. These reforms mark the first time in a generation that Washington has returned a meaningful degree of authority to parents at the expense of the education bureaucracy. They will streamline a significant share of the Federal education bureaucracy in one stroke, and, most importantly, they will provide new hope for the next generation of disadvantaged students, and we can help them avoid the misery of low expectations. If implemented properly and reinforced by a continuing commitment to real reform, it will bring an era of false hope to a long overdue end.

I am grateful to my colleagues on both sides of the aisle who have worked hard to turn the President's vision for education reform into a reality. I believe we produced a plan that is worthy not just of the support of Republicans

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

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

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

Mr. Speaker, let me begin by saying that I believe that today the Committee on Education and the Workforce brings a product that we can all be very proud of and that I believe everyone in this House can support.

I want to begin by thanking a lot of people that made this possible. The merits of this bill and the content of this bill is pretty widely disbursed right now, so I want to take a moment to thank those individuals that made this bipartisan product possible.

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

I also want to thank my Democratic Members of the conference committee: The gentleman from Michigan (Mr. KILDEE), who probably knows more about reauthorizing ESCA than anybody else in the House of Representatives, the gentlewoman from Hawaii (Mrs. MINK), the gentleman from New York (Mr. OWENS), the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Indiana (Mr. ROEMER), all of whom contributed an immense amount of time, an immense amount of knowledge on this subject, and a commitment to our children.

I want to say the same for the gentleman from Georgia (Mr. ISAKSON), the gentleman from California (Mr. MCKEON), the gentleman from Tennessee (Mr. HILLEARY) and the gentleman from South Carolina (Mr. GRAHAM), the Republican Members of our working group who helped us frame this piece of legislation, to present it to the committee, and, ultimately, to present it to the House, where we received an overwhelming vote of 384 to 45.

I want to thank our Senate counterparts, Chairman TED KENNEDY of the Senate Committee on Education, and Senator JUDD GREGG, the senior Republican on that committee, that were so helpful to us in the conference committee.

Clearly the involvement and the support of Secretary Paige and the President's special assistant on this matter, Sandy Kress, who, again, helped guide us through this process.

The staff of this committee has worked long and hard. They have spent many days where they worked 24 hours, or longer, 30 hours, going through this legislation and getting it in shape so we could bring it before you. I want to begin by thanking Charles Barone, John Lawrence and Danny Weiss of my staff and of the committee staff, and special thanks to Alex Nock, who worked for the gentleman from Michigan (Mr. KILDEE), who, again, just had a tremendous amount of expertise on the history of this bill, the intent of this bill, the purpose of this bill, and where we should be going would it. To Denise Forte, who worked hard on civil rights.

□ 1315

I want to thank Denise Forte, who worked hard on the civil rights, and Mark Zuckerman, who was our pit bull here, our House attorney, and to Ruth Friedman and James Kvall, all of whom provided support for this legislation. I just want to mention that Denise Forte cannot be here today as we pass this legislation because she is out receiving an award from the National Youth Law Center for her work on juvenile justice legislation that we addressed earlier in the year.

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

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

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

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

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

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

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

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

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

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

On the other hand, given that the national government has poured upwards of some $130 billion in the elementary and secondary education over the last 36 years with no discernible improvement in educational outcomes for our most disadvantaged students, I fully understand the urgent need to find some ways to make sure that new Federal resources are tied to results.

In any case, I am pleased that this conference report makes a credible attempt to address my concerns about saddling States with this new responsibility. This conference increases the

amount of money authorized to help States develop and administer the tests.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KILDEE), who is our ranking member on the Subcommittee on Elementary and Secondary Education; and I want to publicly thank him for his work to make sure that we had an independent, freestanding after-school program as a part of this legislation.

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to start by thanking both the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Ohio (Mr. BOEHNER) for their strong leadership during this very historic conference. Their bipartisan mission was to produce a bill that will truly help the most disadvantaged children. The conference report before the House accomplishes this feat, and I urge Members to support its passage. This legislation has many, many positive aspects; but in the short time I have, I will only touch upon a few of them.

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

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

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

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

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

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

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

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

Mr. ISAKSON. Mr. Speaker, I come to the well in lieu of the desk so I can look the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee, and the gentleman from California (Mr. GEORGE MILLER), the ranking member, in the eye and say ''thank you,'' not out of courtesy, but out of great admiration for the great job these two men have done. Both had the opportunity to succumb to unbelievable pressures, both partisan and political, and neither did. They kept the interest of America's children and the number one issue of our President paramount. Because of them and the gentleman from Michigan (Mr. KILDEE), the gentleman from New Jersey (Mr. ANDREWS), the gentleman from Indiana (Mr. ROEMER), the gentleman from South Carolina (Mr. GRAHAM), the gentleman from California (Mr. MCKEON), and the gentleman from Delaware (Mr. CASTLE), and the hard work of Ms. Lovejoy and, for me, without the help of Glee Smith, it would have been impossible to spend the time.

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

We will send a new message to a generation that we probably will not see with the development of this legislation.

Robert Browning said that education is a journey, it is not a destination; and I know from my work in Georgia that it is a process, it is not an event. Over time, the investment of this bill means that 13 years from now when this year's kindergartner graduates from high school, our dropout rate will be lower, our reading comprehension rate will be higher, and America's children will enjoy the promise of America: employment, wealth, and, most of all, self-pride.

I could talk for hours about the opportunity this bill gives, but I want to summarize by saying this: to parents, it gives choices of academic enrichment; to students, it gives the investment of resources they have never had; to teachers, the flexibility to use the materials they believe are right; to school boards, it gives the direct order, we are going to leave no child behind. You will have the resources, but you will also have the responsibility. And to America's taxpayer, for the first time, it gives accountability for the dollars that are invested in America's children.

Mr. Speaker, I do not know how long I will serve in Congress, and I have been fortunate enough to be in public life for 24 years. Today is the most important day, and this is the most important event, I have ever been a part of; and I would venture to say, regardless of what the future holds, when my career is over, I will say the same. I have had the occasion to work for a great chairman, a great ranking member, and with men and women who are dedicated to leaving no child behind. I am pleased to serve under a President who has led our party in a positive direction toward the education of our children, all of our children, rich and poor alike. We are a great Nation and the generation that we are about to send into the future will be better off because of the efforts of this Congress and this President.

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

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

I want to join the comments of the gentleman from California (Mr. GEORGE MILLER) and commendations to the gentleman from Ohio (Mr. BOEHNER) and all of the Members on his side for their great efforts in bringing us to this point today. I would not want to describe it as a miracle, but a near miracle that we were able to put such a monumental piece of legislation together and to win the consensus of such a wide-ranging group of people that come to the table with some very, very strong ideas about education.

□ 1330

This bill was in the making for well over 3 years. We have debated many, many issues. In the process, we have worked together by consensus to an agreement on the importance of developing legislation that prescribes programs and allocates money and encourages school districts to perform so that our children can have a better opportunity in the end.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Tennessee (Mr. HILLEARY), who provided a special focus on this conference to the needs of rural schoolchildren.

Mr. HILLEARY. Mr. Speaker, I thank the chairman of the committee for everything that he has done, along with the ranking member, the gentleman from California (Mr. GEORGE MILLER), as well as all our colleagues on the conference committee, and the staffs, the staffs from both ends of this building, for putting together what I think is a great product here today.

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

Education must remain a primary responsibility of State and local school systems. I hope it will always remain so. But in many cases, even though we have many diamonds in the rough, in many cases that job is not getting done; and it is simply not fair for the children to continue to fall through the cracks while we are waiting for them to get their acts together.

That is what this bill does, in effect. It does have more flexibility for local school systems, it requires more accountability; and in exchange for that, it provides more dollars so that they can get the job done.

As the chairman of the committee mentioned, a special part of this bill was the part that I was able to have a big part in, and that was providing a little more money for rural school systems. They sometimes operate at a competitive disadvantage to their affluent suburban counterparts and their inner-city counterparts because of the formula scheme with title I, as well as the fact that rural school systems do not have an army of grant-writers to compete really on an even playing field. So hopefully we will begin the process of evening the playing field.

We also protected the Boy Scouts in this legislation, which I also authored, which I appreciate the gentleman's cooperation in in keeping that in the bill; and we have required that military recruiters have access to the schools, so that especially at a time like now, when it is so important, they can recruit the best and brightest, and at least give the young high school graduates an opportunity to serve in the military.

Finally, I just want to say that we have worked awfully hard on this, and it is a great product. I just hope that everybody will give the children of this country a Christmas present this year by voting for this bill. I urge passage of the bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. ROEMER), and publicly again I just want to thank him for all of the work that he did on flexibility, where he helped us overcome what was going to be a terrible, terrible political stalemate and I think worked out to the satisfaction of all of the members of the conference committee.

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

Mr. ROEMER. Mr. Speaker, this is not a perfect bill, but it has been almost a perfect process.

Due to the integrity and the leadership and the skills of the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), we are at a point of passing landmark and historic legislation to help poor children get a truly good opportunity in this country to get a great education.

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

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

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

Mr. Speaker, this country, with the passage of this bill, will no longer tolerate meaningless degrees. We will no longer tolerate saying that children who come from poor backgrounds can get less of an education. We will no longer tolerate unqualified teachers in poor schools that are not working well.

How do we achieve all this? Briefly, we have diagnostic tests, not high-stakes punitive tests, but tests that will help us actually find out why that child is not reading well, and remediate.

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

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

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

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

Mr. Speaker, in my 11 years as a Member of this body, today especially I am proud to be a Member of this great institution, this law-making body that combined process with product to help our Nation's poorest children get a better education. I am very proud of this bill.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from California (Mr. MCKEON), the chairman of the Subcommittee on 21st Century Competitiveness on the Committee on Education and the Workforce and a valued member of our team.

Mr. MCKEON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the conference for H.R. 1, the No Child Left Behind Act of 2001. This landmark legislation will reform our Nation's public school system.

As a grandfather of 24, all of whom having reached the proper age and are attending public schools, I stand here with great pride to support a bill which embodies the principles President Bush has championed since taking office in January of this year.

Leadership really does make a difference; and last year, many of us on the committee, along with Senators on education, were called to Austin to meet with then President-elect Bush. He put forth the principles that he believed in, and he gave us all an opportunity to tell him how we felt.

And then the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) took up that challenge, and they have worked together very diligently. They have provided an atmosphere where all of us could participate and be a part of working on this great bill. I want to thank them for that.

□ 1345

This bill contains the President's vision that the best way to improve America's schools is to hold them accountable, to increase local and State flexibility, to fund what works and to expand parental options.

Even though the centerpiece of the President's proposal is the annual testing, where problems can be found before it is too late to fix them, and parents can be given information to choose a better performing school, I would like to touch on a few other provisions which I believe are very important.

First, the bill will provide unprecedented new flexibility for all 50 States in every local school district in America in the use of Federal education funds. Having served on a local school board for 9 years I know that those school boards will appreciate that flexibility. I know that the superintendents will appreciate that flexibility.

Under the conference report, every local school district will immediately receive freedom from red tape to transfer up to 50 percent of the Federal dollars that they receive among an assortment of programs. It will also allow up to 150 local flexibility demonstration projects, where locals can receive a waiver from Federal education rules in exchange for signing an accountability contract with the Department of Education, and it will allow seven States

to receive waivers from various Federal education requirements. Hopefully these demonstration projects will help us in further moving more freedom of flexibility to all the other local schools.

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

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

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

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

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

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

I urge support of this bill.

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

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

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

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

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

The President is to be congratulated for taking such divisive nonproductive items as vouchers off the table as Federal policy. He needs to be congratulated for concentrating back on the poor and the disabled, as Lyndon Johnson originally intended. We can go forward within this framework.

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

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

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

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

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

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

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

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

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

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

First, H.R. 1 fully authorizes the President's request for $975 million to ensure that every child can read by third grade. The reading programs contained in this bill will identify students at risk for reading failure and then provide intensive instruction by trained educators to bring them up to a proficient level. In this way, we will reduce the number of learning disabled students referred to special education and we will give all students the tools

they need to master more advanced course work.

Second, to ensure our children are learning, H.R. 1 asks States to access students in grades 3 through 8 annually in math and reading. The results of these assessments will provides parents and the public an effective, highly visible measure of how well their children are performing in school. This in turn will help parents, teachers and school officials diagnose problems and design remedies to improve student achievement.

The bill also recognizes the best way to ensure achievement is to hold the system accountable at all levels, not just the individual student level. For this reason, H.R. 1 gauges each school's academic success by the progress of every student in that school, not just the average student.

Finally, the new flexibility in this bill will allow State and local districts to better align Federal dollars for their own education priorities. In addition, the 2 new flexibility demonstrations, H.R. 1 allows States and locals to transfer up to 50 percent of Federal formula grants between programs. Unlike earlier flexibility provisions, this option is available to any State or school division and it is automatic.

For too long we have allowed our most disadvantaged children to be promoted through our public schools without regard to actual achievement. For too long we have allowed Federal dollars to flow to failure, convincing ourselves that some children were simply beyond our reach. For the first time, H.R. 1 fulfills the promise of education and opportunity for all children, rich and poor, black and white.

Finally, to those who will argue that Members should oppose or recommit this legislation because it does not include IDEA mandatory funding, I ask that you not scuttle a generally good bill. Forty-eight million public school students have waited patiently for the Congress to take notice of their plight and provide the help they so desperately need. Let us not make them wait any longer. Let us approve this bill and send it to the President this year and then beginning next year, I invite you to work with me when this committee takes a comprehensive look at the Individuals With Disabilities Education Act. In that way, we will ensure that our special needs children get the financial resources and the academic support they need to realize their greatest potential.

I do want to express their gratitude to the chairman, the gentleman from Ohio (Mr. BOEHNER) and to the ranking member, the gentleman from California (Mr. GEORGE MILLER), and to all the other colleagues on this. As everyone knows, this was a great team and a great staff effort by everybody. Those who sacrificed many weekends and summer vacations to produce a legislation. My staff in particular, Kara Haas; and the President of the United States, who was so involved in this. We thank President Bush as well.

I encourage everyone to support this legislation which will help all children.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HINOJOSA).

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

Mr. HINOJOSA. Mr. Speaker, I rise today in support of the conference report on H.R. 1, the Elementary and Secondary Education Act.

First, I want to congratulate the gentleman from Ohio (Chairman BOEHNER) and the ranking member, the gentleman from California (Mr. GEORGE MILLER) for their responsible leadership in holding our bipartisan coalition together and for crucial support for individual members' concerns regarding the policy and resource allocation and recommendations. It was an honor for me to work with all the members of Committee on Education and the Workforce. I also congratulate Senator KENNEDY and Senator GREGG for their valuable contribution and I thank President Bush and his administration.

I also wish to recognize the extremely important support of the Congressional Hispanic Caucus led by the gentleman from Texas (Mr. REYES) in fighting for provisions very important to the Hispanic community.

There are many positive features to commend in the conference agreement, and I wish to mention just a few of them. This bill will give many disadvantaged students a great opportunity to excel and to reach as high as they can dream. The conference agreement protects the principle of public funds for public schools.

There are many, many things, and there is not enough time to thank everyone and to mention all of these things in the provision, but I urge my colleagues to vote for this bill.

It was an honor for me to work with all the members of the Education Committee. I also congratulate Senator KENNEDY and Senator GREGG for their valuable contribution and I thank President Bush and his administration. I also wish to recognize the extremely important support of the Congressional Hispanic Caucus, lead by Chairman REYES in fighting for provisions very important to the Hispanic Community.

There are many positive features to commend in the conference agreement and I wish to mention a few of them. The bill will provide local flexibility, with accountability for reaching performance goals and formulas that target funds to schools with the greatest needs. This bill will give many disadvantaged students a great opportunity to excel and to reach as high as they can dream.

The conference agreement protects the principal of public funds for public schools. Program authorization and funding will be provided for school construction and modernization as well as for funding for separate federal after-school and violence prevention programs. Civil rights protections are still included and teacher quality programs will be increased in funding authority by forty percent.

I am very pleased that the Bilingual and Immigrant Education programs will be protected and expanded and that program accountability and funding for teacher-training will be increased. Hispanic parents will find some previously established barriers removed and will find it easier to participate in school improvement committees.

Migrant students will be provided additional resources and both bilingual and migrant students will be assisted in program enhancement with the continuation of national information clearinghouse for research and evaluation. The Department of Education will assist the states in the interstate electronic transfer of crucial migrant records. Time does not permit me to point out other positive provisions. However, I do want to encourage the members of the Appropriations Committees in both chambers to accept the recommendations of the authorizing committees and to fully fund these programs. Reform without resources is meaningless. I urge all my colleagues on both sides of the aisle to help us pass this bipartisan conference report on H.R. 1.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Mr. Speaker, I rise also to support this conference report. And I say, good job, gentlemen. It was hard but they made it happen.

I would prefer a bill, however, that includes more funding for all that we are asking of our schools and of our teachers. We have made quite a list of accomplishments. We need to fund them so they can have the help they need.

I particularly regret that we are not fully funding our Federal share of special education. There is not a school district in this Nation that is not having trouble meeting those costs.

I am pleased, however, that the bill keeps funding for hate crime prevention intact. It is so important because as a result of the 11th of September, there has been a dramatic increase in hate crimes, particularly crimes directed at innocent people and innocent children, including school children.

□ 1400

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

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. SANCHEZ).

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

I rise in support of H.R. 1, a bill that truly takes a step forward in helping

our children get an education in the United States. Under this bill, our Nation's schools will now take steps to narrow the achievement gap between high- and low-income students.

For example, in Santa Ana Unified or Anaheim High School District or the Anaheim Elementary School District, these are all some of the poorest school districts in our Nation and certainly some of the most overcrowded in our Nation. Over 50 percent of the students who are taught in these districts go to school in portable classrooms. H.R. 1 will help our Nation take a significant step forward in helping students like those in these school districts that I have the pleasure of representing.

This bill increases funding for title I programs, increases funding for bilingual education and authorizes funding for school construction and modernization. It also includes funding for pedestrian and bicycle safety, a great issue of importance in my district.

Although Congress still needs to do more to assist schools that teach children with special needs, H.R. 1 is a critical step in ensuring that no child is left behind.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT), a member of the committee.

Mr. HOLT. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of H.R. 1, a truly landmark piece of legislation. I think it shows what we as a Congress can accomplish when we are willing to sit down and work together.

Along those lines, I would like to heap more praise on the chairman and the gentleman from California, and I think the President deserves a good measure of praise for his constructive role in this, too.

The agreement, I am pleased to see, addresses the subject of math and science education, especially the recruitment and professional development of teachers. And if we are going to continue to grow as a Nation, science and math education is critical.

I am also pleased that the legislation authorizes increased funding for a number of programs targeted to the neediest and poorest, programs for title I and teacher quality, bilingual and immigrant education.

But I do want to raise two items that I am disappointed about. I am disappointed this legislation does not adequately address the Federal Government's share of Individuals with Disabilities Education Act. In New Jersey, the communities I represent tell me this is one of the biggest challenges they face.

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

But despite these concerns, however, Mr. Speaker, I want to reiterate my support for the bill and thank the conferees for work very well done.

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

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

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

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

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

As the former Superintendent of North Carolina's public schools, I know firsthand what it takes to achieve real results in academic improvement. It takes setting high standards and ensuring accountability. But most importantly, it takes a commitment to ensure that all of our children have quality educational opportunities to achieve the goal of ''no child left behind.''

Although this bill falls short of fulfilling our commitment to fund the federal mandate on special education, I am pleased that this conference report takes significant steps toward substantial improvement in education. The bill targets federal funds toward the neediest students to close the achievement gap between disadvantaged children and their more affluent peers and between minority and non-minority students. The conference report strengthens teacher training so that our school teachers are qualified to teach in their subject matter. It provides new resources for mentoring, training, salary enhancement and other improvements that give teachers the resources they need to do their very important jobs.

For the first time in federal law, this bill will require that parents are clearly informed about the quality of their children's education. And it makes a significant new commitment to bilingual and immigrant education.

I am disappointed that the conferees did not include the Wamp-Etheridge amendment to provide $50 million in dedicated funding for character education. The conference report instead includes character education in the Secretary's discretionary Fund for the Improvement of Education, and I call on the Secretary to fully fund character education, which we have pioneered in North Carolina to strengthen values-based lessons for our children.

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

In conclusion, this legislation will only work if we back up its requirements with the resources to get the job done. Tough reform without resources simply amounts to cruelty to our children. I understand that the appropriations bill nearing completion contains enhanced education resources for next year. We still must do much more to live up to the federal commitment under the Individuals with Disabilities Education Act (IDEA), and I will be working during next year's reform of that statute to fulfill that commit. My biggest concern is that in the hears to come, especially when the full effects of this year's massive tax bill are felt, Congress will neglect to provide the necessary resources to fulfill the promises of H.R. 1. I will fight every step of the way to make sure that does not happen.

Mr. Speaker, this bill represents a hopeful first step toward better schools for all children in America. I will vote to pass the conference report on H.R. 1, and I urge my colleagues to join me in doing so.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATSON).

(Ms. WATSON of California asked and was given permission to revise and extend her remarks.)

Ms. WATSON of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of H.R. 1, the ''No Child Left Behind Act.'' I comment the sponsors and conferees of this ambitious bill that seeks to address many educational reform goals. H.R. 1 is a bill with good intentions that moves education in the right direction. My question is, ''Are we going to see the results that we want, given the proposed authorization levels?''

Mr. Speaker, new federal mandates without providing the necessary resources to implement them will simply set children and schools up for failure. Funding has increased, yet many key education programs, such as Title I, are currently unable to serve all eligible students. In addition, states facing serious economic downturn coupled with rising school enrollments are already moving to cut critical education programs.

Mr. Speaker, directly after the tragic events of 9–11, President Bush asked for $40 billion dollars to fund home land security and emergency relief efforts. Congress moved quickly, in a bipartisan manner, to address our national security needs. Education funding is just as critical to our national security. Education is the cornerstone of our society. Education of our children is important to the American ideal of democracy.

Mr. Speaker, I urge all my colleagues to consider seriously increases in education funding next session so that we can truly ''Leave No Child Behind.''

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

NATIONAL SCHOOL BOARDS ASSOCIATION,
Alexandria, VA, December 12, 2001.

Re Conference Report on the Elementary and Secondary Education Act.

MEMBER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the nation's 95,000 local school board members, we wish to express our disappointment that the conference report on the Elementary and Secondary Education Act (ESEA) fails to address the ever-expanding financial burdens that the federal government imposes on the nation's school systems and local taxpayers.

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

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

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

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

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

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

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

Sincerely,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The bill before us today will ensure that all children have an opportunity to learn and that we will not tolerate the failure of our poorest students. For the first time, we have established clear goals and a timeline for narrowing

the achievement gap between disadvantaged children and their more affluent peers and between minority and non-minority students. I would also like to point out that this bill provides a significant increase in funding levels for ESEA programs. This bill provides our appropriators with the authority to increase education funding by 20 percent for the next fiscal year. This a great achievement for which I again applaud Mr. BOEHNER and Mr. MILLER.

Today, however, I would like to focus on two matters that I have spent a significant amount time pushing for. First, I would like to talk about the need to recruit and train qualified teachers, which is addressed in H.R. 1.

As we all know, we are approaching an education crisis in our country. Over the next decade, school districts throughout the country will need to hire 2 million new teachers. In my home, Hillsborough Country, Florida, our school district needs to hire more than 7,000 new teachers over the next decade. To meet this need, talented Americans of all ages should be recruited to become successful, qualified teachers.

We need to find creative ways to address the critical shortage of teachers that our school districts are facing. For that reason, my colleague from Indiana, TIM ROEMER, and I, passed legislation in the 106th Congress, the Transition to Teaching Act, to target mid-career professionals who are looking for a career change and want to be a teacher. The Transition to Teaching program will help move people from the boardroom to the classroom, from the firehouse to the schoolhouse or from the police station on Main Street to the classroom on Main Street.

During the last Congress, we were successful in getting a temporary authorization for this program and small amount of initial funding. I am pleased today that the Conference Report to H.R. 1 provides permanent authorization for their very valuable program. In addition, this bill provides a significant increase in funding for the Transition to Teaching program. Under this bill, our appropriators will be able to provide $150 million to help us recruit new, qualified teachers under this program for Fiscal Year 2002. While this is only the one step in helping our schools deal with the teacher crisis over the next decade, it is a significant step in the right direction.

Now, I would like to address student testing. At the beginning of this year, I got an earful from parents, teachers and students who are concerned that standardized educational testing in Florida has run amuck. When the House considered H.R. 1 earlier this year, I rose on behalf of hundreds of thousands of Florida public school students subjected to these tests and expressed my concerns that the principal purpose of testing should be diagnostic—to help teachers teach and students learn. I had previously expressed my concerns on this issue to the Secretary of Education and the President's Chief Advisor on his education proposal. Both of them said they agreed with me.

Testing should determine where my child is at the beginning of the school year and what he needs to work on to get where he should be at the end of that school year. Testing should tell my child, his teacher, my wife and me what we need to know to help him improve as a student.

As many of you know, Florida is already testing students in grades three through eight in reading and math. The Florida Comprehensive Assessment Test (FCAT) also tests writing in grades four, eight and ten. Unfortunately, as I stated above, the purpose of the FCAT is to grade our schools and implement high stakes penalties or rewards based on their scores, not to see where our students need help to boost their performance.

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

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

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

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise to engage in a colloquy with the chairman of the Committee on Education and the Workforce. I support the bill, I think the bill does what it says, and I appreciate all the hard work the chairman and ranking member have put into this bill.

But I am extremely upset about one single provision that only affects New York City and Hawaii. The provision known as the County Provision divides New York City as no other Federal law does. New York City is one unique local education agency; yet this provision mandates that the city be treated as five separate LEAs when it comes to title I funding. The provision, which was added in 1994 to the ESEA, allows for Staten Island to receive almost 150 percent more in title I funds than the city-wide average. In fiscal year 2001, Staten Island received $1,718 for a title I student, whereas Brooklyn receive $811 and the Bronx, which I represent, receives only $552 per title I student.

This provision undermines the very premise of the bill. We tried to eliminate this provision. We thought we had a compromise, but we did not quite reach it.

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

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

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

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

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

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

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

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FATTAH).

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

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

There is more work that will be required of us as we go forward, but I think this is a conference committee that we can all embrace. It is a giant

step forward, but we are still a long way from making sure that poor children do not end up with a poor quality instructor and poor quality textbooks and educational materials. This is, as a Federal Government, I think, an appropriate role for us to play.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I rise today in very strong support of the conference report for H.R. 1, the reauthorization of the Elementary and Secondary Education Act.

Nearly a year ago, Congress embarked on a mission to improve the education of America's public school students. Today, I am proud to say that we have produced a consensus bill that, when implemented by the Administration as intended by Congress, will dramatically expand the opportunity for all children in our country to learn.

A COOPERATIVE AND BIPARTISAN PROCESS

This bill is the result of many people's labor and ideas. I deeply appreciate Chairman JOHN BOEHNER for the leadership, candor and honesty that he displayed throughout his process. He has been a man of his word.

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

Senator JUDD GREGG has been deeply engaged throughout this effort, and, while we often disagreed, we were able to work successfully to resolve our differences.

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

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

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

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

AN URGENTLY NEEDED BILL

Despite a commitment by our government to the contrary, our educational system has tolerated extremely low educational achievement for decades. Many thousands of schools throughout this nation, disproportionately in neighborhoods serving low income and disadvantaged youth, have unacceptably high percentages of children who cannot read, write or do math at their grade level. The problem is not that they do not have the ability to succeed or that they are not capable of higher levels of achievement. The problem is that states and school districts have not provided them the opportunity to do so. Those same schools have the least qualified teachers, the highest dropout rates, and are in the greatest physical state of disrepair.

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

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

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

73 percent of 8th graders not able to conduct math at a proficient level;

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

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

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

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

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

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

AN EMPHASIS ON ACCOUNTABILITY, RESOURCES, AND QUALITY

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

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

Our bill, for the first time in federal law, establishes clear goals to close the educational achievement gap over a 12-year period. Through a system of state-based annual tests in grades three through eight that will act as a diagnostic tool, we will identify schools in need of improvement and ensure they receive adequate resources to improve.

Our bill provides for the unprecedented targeting of federal dollars to the neediest students, including a change in the Title I formula that will reward states who make strides to reduce school finance inequity.

Our bill sets the clearest educational standards in history.

For the first time in federal law we establish a clear goal of requiring that every teacher is fully qualified to teach in his or her subject area within four years. And we offer the greatest support for our teachers in history.

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

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

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

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

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

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

New money for teachers to receive mentoring, professional training, and salary enhancements. We are supporting teachers by giving them the resources they need to meet our new standards;

We significantly increase funding for Title I, the program for disadvantaged students, and better target the money to the neediest students;

We provide assistance for struggling schools;

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

Both on the House floor earlier this year, and then again during the conference committee, we successfully defeated a negative, conservative education agenda that threatened to undermine the original goals of this effort.

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

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

We maintain and expand the After-School program, despite the President's attempt to eliminate it as a separate program.

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

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

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

A REAL INCREASE IN RESOURCES

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

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

The President asked for only a 3% increase in ESEA. We will now see a 20% increase in ESEA in real appropriations under the FY 02 Labor-HHS appropriations bill;

The President asked for only a 3% increase for Title 1. We won a 16–20% increase in appropriations,

The President asked for only a 3% increase for teacher quality. We won more than a 40% increase in appropriations;

The President asked for zero percent (0%) for After-School programs. We won an 18% increase in appropriations.

COMMITMENT TO SPECIAL EDUCATION FUNDING STILL UNMET

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

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

CONCLUSION

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

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

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

ACKNOWLEDGEMENTS—H.R. 1

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

I would like to acknowledge and thank President George W. Bush, Committee Chairman JOHN BOEHNER, Senator TED KENNEDY, and Senator JUDD GREGG. I would like to acknowledge and thank the other House Democratic conferees for their contributions, Representatives DALE KILDEE, PATSY MINK, Major OWENS, ROB ANDREWS and TIM ROEMER.

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

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

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

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

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

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

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

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

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

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

Yesterday, the Education Trust put out a report on the eve of our consideration of this bill that identified 1,320 districts with high-poverty students, high percentage of poverty, high minority schools that are excelling in the top third of their States. We can no longer accept the level of failure that we have in the past, and this legislation says that we will not.

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

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

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

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

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

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

But not only did he do it during the campaign, he maintained that effort

and that focus to make this his number one domestic priority. That is when the gentleman from California (Mr. GEORGE MILLER) and I, and others, were brought down to Austin, Texas, to talk about the foundations of this bill. That is why the first full day in office, on January 22, the gentleman from California (Mr. GEORGE MILLER), Senator KENNEDY, Mr. JEFFORDS, and I were in the Oval Office with the President telling us how important this bill was.

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

□ 1415

But as important as this bill is, there is another important dynamic that occurred over the course of the year, and that is how this bill is going to become a law.

If we go back to last year during the campaign, the President talked about the need for a new tone in Washington. The President said that we needed to be more bipartisan here in Washington, and the American people applauded him for his willingness to say that. When the President brought us to Texas on December 21 of last year, he brought us down there to talk about education, but he also talked to us about wanting to move ahead together.

And on January 22 when we were in the Oval Office, it was the President who once again said that we need to move this process together, and we need to work together. I can tell Members that I believed the President when he was a candidate, and I believed him all during this year. And I believe, as many of our Members on both sides of the aisle believe, that it is time that this body become more bipartisan.

Now if the gentleman from California (Mr. GEORGE MILLER), who, as he said, have spent 10 years throwing bricks at each other, and every Member knows that the gentleman from California (Mr. GEORGE MILLER) and I can be as partisan and as hard-nosed as anybody on either side of the aisle, if we can work together with the members of our committee, which is a very partisan committee, it has been the most partisan committee in this House for the last 3 decades, if we can do it, there is no reason why any other committee in this House cannot do it.

I can tell Members during the 20 years that I have been in this business, this is by far the most important piece of legislation that I have ever worked on. It is my proudest accomplishment. It is the work product that I am proud of; but, as importantly, the way that we did this. Bipartisanship means that Members have to trust each other. Bipartisanship means that Members need to work together and find common ground.

To the pundits who said that the bill was stalled, were not sure we were going to get it, let me suggest the bill was never stalled. It took a great deal of patience and listening, and it took a great deal of trust to actually bring this product to where we are today.

As I said earlier, I could not have had a better partner in this process than the gentleman from California (Mr. GEORGE MILLER). We did not know each other very well when this year started, but I laid out a vision for our committee and a vision for how this bill could become law, a vision of starting in the right place in order to end up in the right place.

The gentleman from California had his critics on his side of the aisle who could not understand how he could support a bill that I was supporting; and I clearly had my share of problems with Members that could not believe I could be supporting a bill that the gentleman from California (Mr. GEORGE MILLER) was supporting.

Mr. Speaker, we went through this process together, and I could not have enjoyed our experience, nor could I have developed a better friend than the gentleman from California.

Let me say to my colleagues in the other body who worked with us over the last 4 or 5 months, Senator KENNEDY and Senator GREGG, their willingness to sit and work through this process, their willingness to take the time and to trust each other, helped to develop what I think is a landmark piece of legislation. I thank all of them for their efforts.

When we step back and look at what we are trying to do here, it is simple. The gentleman from California (Mr. GEORGE MILLER) said it in his closing remark, and that is the gentleman from California and I, Senator KENNEDY, Senator GREGG and Members on both sides of the aisle are committed to the concept that every child in America can learn, and that every child in America should have the opportunity to get a sound, basic education.

Every Member in this body understands that without a sound, basic education, the chance at the American dream does not exist. For 35 years we have promised from the Federal Government that we would help the poorest of our children. We failed, and we failed miserably.

This is not the end of this process. Let me suggest to Members, this is the beginning of the process. The writing of the rules, the implementation of this bill in each of our 50 States is going to be a Herculean battle, not unlike what we have seen over the course of this year.

Mr. Speaker, I urge my colleagues to not only vote for this bill today, but to keep up their vigilance at home to get this bill implemented correctly because at the core of it, what we are trying to accomplish here is to ensure that every child in America has a chance at a good education, and that every child in America has a chance at the American dream.

Mr. SAXTON. Mr. Speaker, I rise in strong support of H.R. 1. This bill addresses the vital school construction needs unique to federally impacted schools by authorizing a new competitive construction component within the federal Impact Aid program. In many cases the local tax base does not have the needed resources to draw upon to meet the needs of our military and Indian schools. As a result, lack of funds has until now left those schools without the resources for new construction, renovation, or modernization initiatives. H.R. 1 adds the new construction component that will allow these schools to complete important projects by enabling them to compete for funding, on the basis of need.

However, I am disappointed that this bill does not allow for separate construction funding sources for all eligible categories of federally impacted schools. While the current provision appears to benefit the entire Impact Aid community, the military component of the program has little prospect to successfully compete for discretionary money, as Indian districts have the greatest need for emergency funds. While unintentional this Bill would leave military districts with pressing construction needs on the side of the road once again. From my own travels to several military installations, it is clear that more—much more—needs to be done to ensure adequate funding for both of these eligible categories.

In closing, I want to express my appreciation to my colleagues for their concern in addressing this problem overall and I look forward to working together in the future to create a division of these construction funds to ensure the unique needs of the two major categories of federally connected school districts are met.

Mr. REYES. Mr. Speaker, I rise today in strong support of the Elementary and Secondary Education Authorization Act Conference Report.

I would like to join my colleagues in commending the members of the Conference Committee, namely Chairman KENNEDY, Chairman BOEHNER, and Ranking Member GEORGE MILLER, for their hard work and commitment on this conference report. This bill was truly the product of bipartisanship. The best interests of our children and teachers took priority, and because of that they will continue to prosper.

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

I am particularly pleased with the agreements made in regards to bilingual education. This bill will empower our parents and given them the option to remove their children from bilingual education at any time. Also, no time limit will be imposed on our students regarding their length of enrollment. The funding formula for bilingual education will base its funding levels on the size of its limited english proficiency student population. Our teachers will also be provided funds for training and professional development.

This bill also authorizes a funding increase of nearly twenty percent for elementary and secondary education programs. This is a significant and well deserved increase. Students and teachers of El Paso will surely benefit and I am pleased to show my support for its passage.

Mr. ISRAEL. Mr. Speaker, today I will vote for The No Child Left Behind Act, H.R. 1. While I support this legislation it is not without some reservations, particularly the inadequate federal support that the bill provides for the Individuals with Disabilities Education Act (IDEA). Overall, this bi-partisan legislation strengthens our commitment to closing the achievement gap between rich/poor, minority/non-minority students, improves targeting of funds to low-performing students, improves teacher quality, preserves the After-School program and key civil rights safeguards, and expands local flexibility in the use of certain federal education funds. And this bill contains the high levels of authorizations needed to assure that adequate resources will be provided to carry out the mandates of this new law.

I do, however, find the level of funding for special education to be cause for grave concern. Twenty-one years ago the federal government said it would spend 40 percent of the cost of educating children with disabilities. Yet today the government provides only 15 percent of that cost. Children with special needs often require additional resources that put a great burden upon states and local school systems.

That is why I asked the Conferees to provide the 40 percent funding that the federal government promised so long ago. I am very disappointed that they decided to wait until next year to address this issue. In the meantime, states, local school systems and families of these children will continue to suffer.

Mr. Speaker, this is not a flawless bill, but it is a very good start. Despite my concerns about funding for special education programs I am going to vote in favor of the legislation. Our children's education is far too important to let the Perfect be the enemy of the Good.

Mr. SERRANO. Mr. Speaker, I rise in support of the conference report to accompany H.R. 1, the Elementary and Secondary Education Act Reauthorization bill, also known as the No Child Left Behind Act of 2001.

At the outset, I want to thank the gentleman from Ohio, Chairman BOEHNER and our Ranking Democrat, the gentleman from California (Mr. GEORGE MILLER) for bringing to the Floor a good conference report.

This legislation reauthorizes the Elementary and Secondary Education Act for six years and authorizes $26.5 billion for its programs in fiscal year 2002. While President Bush made education a priority at the beginning of this year, he failed to request any significant increase in funding to back up his broad outline for reform. But Congress has stepped in to provide a significant increase in real funding. The appropriations bill that goes with this reform bill will provide nearly $4 billion more in funding for all elementary and secondary education programs funded by the federal government, nearly a 20 percent increase in appropriations. President Bush asked for only a three percent increase.

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

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

As a native of Puerto Rico, I am pleased that this bill moved Puerto Rico to full participation in Title I over the next 6 years in roughly 8 percent a year increments. Next year, for example, Puerto Rico's Title I funds will increase by over $60 million, more than a 20 percent addition. But that is not all.

Under this legislation and the upcoming appropriation bill, Puerto Rico will also enjoy expanded funds for the teacher quality program which will increase by $38 million, or 58 percent, the technology program which will increase by $10 million, or 67 percent, and the Bilingual Education program which will grow by $1 million, or 69 percent.

However, Mr. Speaker, despite endless negotiations between people of good faith, I have to admit that I am disappointed that the conferees did not omit the so-called ''County Provision.'' The County Provision states that if a local education agency (LEA) contains two or more counties in its entirety, then each county is treated as if it were a separate LEA for the purpose of calculating Title I grants. The provision singles out New York City for different treatment than any other local education agency in the nation (other than Hawaii) in determining the allocation of Title I funds. The counties of Kings (Brooklyn), Manhattan, Richmond (Staten Island), Queens, and the Bronx are treated as if they are five distinct LEAs; despite the fact that under New York State law the New York City Board of Education is the only LEA in New York City. As a result, Title I funds are now distributed based on each borough's percentage of New York City's federal Census poverty count. In short, poor children in different boroughs receive differing amounts of federal education funding. Retention of this provision continues to promote inequity in funding among the counties within New York City.

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

Finally, Mr. Speaker I am pleased that the Conference Committee on H.R. 1 has produced a bill that strengthens our commitment to closing the achievement gap between rich and poor, minority and non-minority students, improves targeting of funds to low-performing students, improves teacher quality, preserves the After-School program and key civil rights safeguards, and expands local flexibility in the use of certain federal education funds. And this bill contains the high levels of authorizations needed to assure that adequate resources will be provided to carry out the mandates of this new law.

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

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

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

This bill provides accountability in public education. In the process, it makes sure that funding is available for teachers to receive high quality professional development H.R. 1 targets schools that need extra help and also offers additional funds for educating poor children. The bill recognizes that some of our newest citizens may have limited English proficiency and makes sure they are provided the extra help they need. The state based testing system makes sure that we can more strategically direct efforts to improve the performance of children. Schools that do well will be recognized and schools that need help will be provided the assistance they need. There is much in this bill that merits our broad support.

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

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

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

Mr. MOORE. Mr. Speaker, I rise today to express my support for the conference report for H.R. 1, the Leave No Child Behind Act. This bill is a great improvement over the legislation passed by the House earlier this year, both in terms of policy goals and adequate funding authority. While this legislation is not

perfect, we should not let the perfect be the enemy of the good.

As a father and grandfather, I take the future of our education system very seriously. I have always believed that the federal government is an important junior partner in creating education policy. As such, I believe sound federal education policy must include targeted help for low-income kids and struggling schools, as well as local control, flexibility and support for school officials and teachers.

Following House passage of H.R. 1, I wrote to the conferees and requested that the conference committee meet minimum standards to ensure my support of the bill. I believe that they have met my requirements, and I will support the conference report.

Not only is education key to our country's economic success in the twenty-first century, the right to a high quality public education goes to the very core of the American values of fairness, opportunity, hard work, and democracy. Ensuring that all American children can get an adequate education, despite their family income, race, or accident of geography, will pull families out of poverty and make our country stronger. This conference report goes a long way towards targeting funding and assistance to the schools and the kids that need it most. The bill improves targeting of federal funds to low-income schools districts. It also establishes a new, formula-driven Bilingual and Immigrant Education program to provide services to English-language learners that most need them. Additionally, the conference report restores after-school and violence prevention program funding that was eliminated from the original House bill.

I have made a commitment to parents and students in my district that I will oppose any legislation that uses vouchers to siphon public money into private schools. The conference report provides public school choice for children in consistently failing schools. The bill also includes provisions that help local school districts address the practical matter of school choice, such as transportation costs. Furthermore, the bill does not include block grants that undermine the targeting of funds to students that need them the most.

Schools in my own Third District of Kansas are in severe need of repair and reconstruction. Seventy-six percent of American schools are currently in disrepair. Yet, the original House-passed H.R. 1 did not include funding for locally-controlled school construction. The conference report authorizes funding to continue the vital school construction program created by President Clinton.

More, than ever, we need to ensure that low-income children get the quality teachers certified in their area of instruction. The conference report doubles President Bush's proposed funding for teacher quality and will give teachers the support, mentoring and salary incentives they need to ensure that we continue to have a strong, professional teaching force.

Since taking office, superintendents and principals in the Third District have told me that Congress needs to step back and allow them to do the jobs they were hired to do without excessive red tape, bureaucracy and federal micromanagement. This conference report reduces the number of federal programs and significantly increases state and local control of education decisions. It allows local school districts to transfer up to 50 percent of funds between programs and gives states additional flexibility to transfer funds between programs as long as they demonstrate results.

The report gives the states the flexibility to design and select their own tests for math and reading and has made a ''commitment'' to states to cover the costs of administering the test. I am supporting this legislation today, in part because I fully expect the House to fulfill this funding commitment, as promised by the conferees, this year. As I have long worked to fully fund the federal government's commitment to special needs kids through IDEA, I will not support creation of another unfunded mandate.

Additionally, the bill provides a national benchmark to ensure the rigor of state tests without crating a new, overly burdensome national test. The bill allows states to use their own report cards, so parents will know their child's school measures up.

Although I was disappointed that the Class Size Reduction program and the Eisenhower Professional Development programs were combined into one grant, I am satisfied by the fact that funds were not cut for the programs and school districts will be held harmless and receive at least as much funding as they received in FY 2001.

Finally, I want to send a clear message to my colleagues regarding funding of our national education priorities. It is critically important that states and local school districts get the funding they need to implement these new policies. Many promises have been made in this bill, and as a Member of the Budget Committee, I will make every effort next spring to ensure that these promises to fund these new priorities are kept. I had hoped that the conferees would take a stronger stand and make a commitment to fully fund IDEA and not put this important job off until next year. Nevertheless, my commitment to adequate funding for IDEA and other national education priorities, both new and old, remains strong.

Mr. ACEVEDO-VILA. Mr. Speaker, I rise today to commend my colleagues that worked together to bring this Education conference report to the floor. This legislation is good to every child in America. The President stated that ''no child be left behind,'' with this legislation Congress makes sure that the expression ''no child'' would include the Puerto Rican children.

In the area of Title I, Puerto Rico's funding was caped at 75 percent of what other U.S. jurisdictions received. Puerto Rico has operated under this unfair formula even though the Island must meet all Title I program requirements.

Language in this report corrects the unfairness by increasing Puerto Rico's Title I funds from 75 percent to 100 percent of our fair share over a 6 year period. This is the most important federal legislation for education that has been approved for Puerto Rico in the last 30 years.

In addition, Puerto Rico will benefit from other programs included in the federal legislation, such as increased funds for reading and math tests for students in the third through eight grades; teacher training programs, after school tutoring and technology programs.

In these times of economic hardship, the best investment we can make is in the education of our children. I urge my colleagues to vote in favor of this legislation, and to reaffirm to the American people that education is still a top priority.

Mr. HONDA. Mr. Speaker, I rise to express my reluctant support of the conference report on the Elementary and Secondary Education Act. While this legislation makes a significant strides in the field of education reform, it fails to honor an important commitment to our nation's children.

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

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

Mr. Speaker, as a former teacher and principal, I understand that accountability is a two-way street. Education reform will only succeed when it is adequately funded. Our nation's schools cannot be expected to provide a top-quality education if they do not have the resources to do so. This legislation is an important first step in improving our nation's educational system, but it is not the last. Congress must continue to commit the necessary resources to make reform a success. Only then will we truly leave no child behind.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today in strong support of the reauthorization for arts in education in the Conference Report of H.R. 1, the Elementary and Secondary Education Authorization Act. I applaud the efforts of my colleagues in developing consensus on this measure to improve elementary and secondary education for our children—our future. According to the Conference Report, Subpart 15, Section 5551, ''the purposes of this subpart are the following: (1) To support systemic education reform by strengthening arts education as an integral part of the elementary school and secondary school curriculum. (2) To help ensure that all students meet challenging State academic content standards and challenging State student academic achievement standards in the

arts. (3) To support the national effort to enable all students to demonstrate competence in the arts.'' I have long been a champion of arts and music education in our schools. The investment in these initiatives is one I remain committed to achieving.

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

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

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

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

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

Many countries also recognize this and they, therefore, focus their industrial, economic, and security policies on nurturing and developing an educational system that responds to the needs of its citizens and their societies. Countries that follow this path of nurturing educational achievement focus their efforts into ensuring that a pipeline which pumps talented and imaginative minds and skills is connected to the needs of the country's socio-economic and security enterprise.

Yet here in this country, this pipeline is broken, threatening the competitive edge we enjoy in the business of personal and economic growth, and technological innovation.

The only acceptable course of action for a country that wishes to maintain its edge in the global system is to have a long-term educational policy that responds to the challenge of a declining public school system with vigorous and renewed effort and commitment. That is why this bill before us today is truly historic.

This bill strengthens education in this country by enhancing accountability of our public schools, increasing overall funding for education for disadvantaged students, for science and math education, and for technology programs.

I am heartened that the bill would provide nearly $1 billion for a new program aimed at having all children reading by the third grade. It would require states to develop a plan to have a qualified teacher in every classroom within four years. It also would give local school districts greater flexibility in spending federal money.

The bill increases federal funding under the Elementary and Secondary Education Act by $3.7 billion. Funding for Title I, the federal government's main education program for the disadvantaged, would increase by $1.7 billion under the law and technology programs would be increased by about $150 million.

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

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

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

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

Let me be clear, this is a constitutional right. Local school districts do not have the discretion to not fulfill their obligations to children with special needs. Where does the approximately $10 billion in unfulfilled Federal pledges to the States come from? It has to be made up somewhere and will most likely come from other important, but not constitutionally mandated, priorities. This is the real cost of our inaction. It is either a tradeoff in spending or a property tax increase. It does not have to be this way, of course. And I believe the American people deserve better from us.

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

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

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

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

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

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

To achieve this goal, elementary and secondary education must provide students the skills they need to excel in the new economy. This means first and foremost an emphasis on basic skills—schools cannot graduate students without strong reading, writing, and analytical skills. But we must also ensure that students are well versed in the latest technologies and

have the opportunity to develop their full potential in the arts, sciences, or literature.

The Conference Report helps us take the first step toward reinvigorating our public education system—and provides schools the resources they need to implement reform.

This legislation will require an unprecedented testing regime to hold schools accountable for improving the achievement of all students. Schools that fail to make the grade will at first receive more federal assistance to improve their curricula, then if they continue to fail, will have to provide funds to their students for tutoring or to travel to another public school.

The bill provides funds to local school districts to implement these reforms. It increases federal education funding by 20 percent—an increase of almost $4 billion—to allow schools to develop accurate tests, improve the training and recruitment of teachers, buy computers, and develop afterschool programs. It targets these funds at the school districts that need it most—those with a large number of low income students—while allowing all school districts more flexibility in how they use federal funds.

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

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

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

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

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

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

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

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

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

The conference report also helps school districts with the evergrowing teacher shortage problem by giving local schools new freedom to make spending decisions in up to 50 percent of the non-Title I federal funds they receive. With this new freedom, a local school district can decide to use additional funds for hiring new teachers, increasing teacher pay, improving teacher training and development or other uses. This measure will make it easier for local schools to recruit and retain excellent teachers. It also consolidates current programs into a new Teacher Quality Program which allows greater flexibility for local school districts. In addition, the report includes Teacher Opportunity Payments, which provides funds for teachers to be able to choose their own professional development activities.

I am particularly pleased that language from the Foundations for Learning Act, which I worked on with Representative and Co-Sponsored PATRICK KENNEDY and Senator TED KENNEDY is included in this conference report, allowing local school districts to use federal funds to establish or contribute to existing prekindergarten programs. These programs will help our children to be better prepared for kindergarten by focusing on social and emotional growth, in addition to educational instruction. By preparing these children for kindergarten, they can enter school at higher social and emotional levels. They will know how to work with their classmates and will be accustomed to the basic rules of a classroom setting. This will allow teachers to focus more of their attention on actually teaching the class rather than working on acceptable social behaviors.

Moreover, this legislation includes funding for youth violence prevention and before and after school activities, two issues in which I have spent a great deal of time working on over the past 5 years. By providing children with options during non-school hours, we are giving them the guidance and tools they need to reject violent and destructive behaviors and giving them the chance to grow up and mature into productive and happy young adults. With many single parent families and families with two working parents, millions of children need a place to go to before and after school. By allowing school districts to use federal funds for these programs, many children across the nation will not be sitting home alone or getting involved with a bad crowd while waiting for their parents to get home from work.

Although this bill does not address the issue of fully funding the Individuals with Disabilities Education Act, it does lay the groundwork for important reforms in the program, which will be the next major education reform project the Congress should address. I look forward to working on legislation that will finally fulfill the federal government's commitment to fully fund IDEA.

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

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

I applaud the work of the conferees on this legislation, who have produced a bill that strengthens our commitment to closing the achievement gap between rich and poor students, improves targeting of funds for low-performing students, improves teacher quality, preserves critical after-school programs and expands local flexibility in the use of federal education funds. With respect to overall funding levels, this conference report provides a significant increase in funding for assistance to school districts to help improve student achievement, including a 57 percent increase in Title I resources, which are targeted for economically disadvantaged students. The agreement also reauthorizes most federal elementary and secondary education programs, bilingual education, teacher training and safe-school programs for six years. Perhaps most importantly, this bill contains the necessary authorization levels to assure that adequate resources are provided to carry out the mandates provided under this new law.

I am also pleased that the Conference Agreement contains language included in the original House bill that establishes annual student testing in grades three through eight in math and science. The testing provision is designed to better inform parents and school officials about students' academic progress. For students in low-performing schools, the agreement requires districts to implement certain corrective actions, and if adequate progress is not achieved after one year, school districts would have to allow students to transfer to other public schools, and assist parents with the associated transportation costs. Rightly, this agreement does not mandate or impose a federal testing provision. Instead, under H.R. 1, states will design and select their own tests, and allows states 4 years to develop and implement the tests for every child in these six grades.

Along with annual testing, this legislation includes a number of accountability provisions intended to help hold schools reach high levels of academic achievement for their students, including state, school district and school ''report cards'' to parents and the public on school performance and teacher qualification. These provisions are critical to ensure that while we are asking much of our students academically, we are asking schools to maintain a high degree of professional standards and excellence. For the first time, this legislation establishes a federal law that teachers must be qualified in their subject area within four years. And this measure provides them with the resources for training, support and mentoring that they need to reach that goal.

The conference report also provides a significant new commitment to bilingual and immigrant education. For the first time in federal law, this measure establishes a formula that will target federal aid to where the greatest need in bilingual education exists. Under this provision, the Department of Education would distribute the funds to states according to a formula based 80 percent on the number of children with limited English proficiency in the state and 20 percent on the number of immigrant children in the state. Further, the agreement eliminates the existing requirement that 75 percent of the funds be used to support programs in which the child is taught in his or her native tongue, and allows local school districts to determine the best method of instruction to teach children with limited English proficiency. As a representative of Texas, a border state, I strongly support these provisions, which will provide school districts with expanded resources and flexibility to assist students with limited English proficiency.

While on balance, this bill is an important achievement, I am disappointed that the conferees did not include a provision to convert the special education programs from a discretionary spending program into a mandatory spending program. Earlier this year, with my colleague CHARLES BASS (R–NH), I introduced legislation (H.R. 737) that would make IDEA funding mandatory. Under H.R. 737, the federal government would be obligated to increase its share of funding by 5 percent a year for the next five years until full funding for IDEA is reached in 2006. It is important to point out that since its enactment in 1975, IDEA committed the federal government to fund up to 40 percent of the educational costs for children with disabilities. However, the federal government's contribution has never exceeded 15 percent, a shortfall that has caused financial hardships and difficult curriculum choices in local school districts. I believe Congress must abide by its commitment and provide the financial resources to help local school districts provide a first rate education to students with disabilities, and I am hopeful that the leadership of the House and Senate, as well as the Administration will address this issues next year when we consider reauthorization of IDEA.

Like many of my colleagues, I have long sought many of the key provisions of this bill, including enhanced teacher quality, parental notification, school accountability, and new and better targeted resources. Given the broad support this legislation enjoys, it is clear that a bipartisan majority in the Congress support these critical provisions. H.R. 1 offers the right combination of accountability and resources and I am proud to support its passage today.

Mrs. MCCARTHY of New York. Mr. Speaker, although I rise in strong support for the Elementary and Secondary Education bill, I am disappointed that it does not fully fund the Individuals with Disabilities Education Act (IDEA). The basic principle of IDEA is that a free and appropriate public education should be provided to children with disabilities between the ages of 3 and 21, and that these children should be educated with children who are not disabled ''to the maximum extent appropriate.''

In the 1975 law, Congress pledged to provide up to 40 percent of the average per pupil expenditure on special education services. However, we have not kept our promise. Congress has appropriated only funds to meet between 5 and 14 percent of the average per pupil expenditure with FY2001 appropriations setting a record at 14.9 percent.

Since Congress has not fully funded IDEA, our schools must spend more of their own money to meet the regulation of providing free and appropriate education to children with disabilities. Mr. Speaker, when everyone in government is finally making education a top priority, we must provide our schools with the funding we promised them.

As I meet with my schools each week, I've been hearing a clear message from my superintendents and principal that more resources must be committed to provide fair and adequate educational opportunities to children with special needs, and that the federal government can help in a dramatic way by moving towards the maximum authorization level.

In the past, ''fully funding'' IDEA (meeting the 40 percent authorization) has generally been a trade-off that for sacrificing other educational programming.

And although today I believe we have missed a historic opportunity to meet our federal commitment to local schools this year, I believe in Chairman BOEHNER'S commitment to passing this legislation next year.

Mr. Speaker, I look forward to working with my colleagues in the Education and Workforce Committee to fully fund IDEA when we reauthorize the program next year.

Mr. FORD. Mr. Speaker, I rise today in support of the conference report on H.R. 1.

This bill represents a major step forward in education policy. For the first time, federal funding will be tied to results, to actual student achievement. The system of accountability and standards implemented by H.R. 1 is long past due.

Results cannot be achieved without resources—for good reason, the consideration of H.R. 1 has been linked to substantial increases in appropriations. For decades, the federal government has made promises to local schools that we will provide them with the resources they need to raise student achievement.

Now, we are imposing accountability measures requiring schools to perform. So it is absolutely crucial that the resources be there. And we are providing substantial increases for ESEA funding to school districts.

That said, this legislation, by itself, cannot fulfill some of the claims that have been made. Calling it the ''No Child Left Behind Act'' exaggerates what we are doing here, and I fear it makes false promises to the children who will still be left behind.

This week, this Congress passed up a historic opportunity to make good on a commitment we made to children with disabilities in 1975 with the passage of IDEA. With IDEA, the federal government promised to fund 40% of the costs to states of providing a quality education for children with special needs.

But year after year, Congress has fallen well short of making good on that promise. This week, we fell short once again. We owe it to children with disabilities—and to all of our children—to come back here next year and ensure that IDEA is fully funded.

Another shortcoming of this legislation is its silence on school construction and renovation. Millions of students, including thousands of children in my district, attend schools that are in desperate need of extensive repair or outright replacement. This problem has not gone away. Our children deserve safe, comfortable, modern schools.

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

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

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

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

While not perfect, the final version of H.R. 1 represents a bipartisan agreement that will move us in the right direction by providing more support and investment for public education. This bill establishes clear goals and a timeline for narrowing the achievement gap and targets federal dollars toward the neediest children. It sets a four-year goal for ensuring that all teachers are qualified to teach in their

subject matter and provides resources for mentoring, training and salary enhancements to help us meet this critical four-year goal. It helps bilingual education and eliminates the highly punitive elements of the President's original plan. Also important is what is not in the bill, efforts to repeal after-school program funding or divert money away from our public schools were rejected. I applaud the addition of a section dealing with school construction.

I support the overall framework that the bill provides, but I have concerns about imposing new multi-year mandates without matching multi-year funding, failing to help local communities deal with their growing education budget shortfalls in the wake of September's events and the lack of full funding for special education.

The federal government should lead by example in offering the best possible public education to our nation's children. H.R. 1 is a good start and it will certainly help return our school systems to the original goals of the 1965 Elementary and Secondary Education Act and ensure that all students have an opportunity to grow academically.

Mr. BEREUTER. Mr. Speaker, this Member wishes to add his support for the H.R. 1 conference report, and his appreciation to the distinguished gentleman from Ohio [Mr. BOEHNER], the Chairman of the House Education and the Workforce Committee, and the distinguished gentleman from California [Mr. MILLER], the ranking member of the House Education and the Workforce Committee, for bringing this important legislation to the House Floor today.

This is the most important action we have taken regarding elementary and secondary education since this Member first came to Congress. The H.R. 1 conference report, makes states that use Federal dollars accountable for improving student achievement, grants unprecedented new flexibility to local school districts, empowers parents and provides an escape route for children trapped in failing schools.

The No Child Left Behind Act enhances flexibility for local school districts by allowing them to transfer up to 50 percent of their Federal education dollars among an assortment of ESEA programs as long as they demonstrate results. In addition, the H.R. 1 conference report consolidates a host of duplicative programs to ensure that state and local officials can meet the unique needs of students. The legislation also gives low-performing schools the chance to improve by offering necessary financial and other technical assistance.

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

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

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

Mr. Speaker, this Member is also very concerned that the H.R. 1 conference report does not include a provision that would create mandatory full funding of the Individuals with Disabilities Education Act (IDEA). Only July 19, 2001, this Member sent a joint letter to the distinguished gentleman from Ohio [Mr. BOEHNER], along with several other Members of Congress, requesting that Mr. BOEHNER work with the other House and Senate conferees on the reauthorization of the Elementary and Secondary Education Act (ESEA) to improve the current ESEA reauthorization bill by including a mandatory IDEA full funding measure in the conference report. It is very unfortunate that such language was not included in the agreement.

Currently, the Federal Government is funding an average of 12.6 percent of the per pupil expenditure for children with disabilities. The other 27.4 percent of this unfilled congressional promise is a burden for state and local governments as they are forced into providing these funds. This Member has said, for many years now, that the one significant way that Congress could possibly help decrease property taxes for Nebraskans is to keep the congressional promise to provide 40 percent of the costs of special education, as this would enable a local school board to either lower property taxes or use such funding for other priority school needs as determined by the local school board. Therefore, this Member strongly urges this body to revisit this issue immediately in the upcoming Second Session of the current 107th Congress.

Mr. Speaker, in closing, this Member asks his colleagues to support the H.R. 1 conference report.

Mrs. MORELLA. Mr. Speaker, I rise today to congratulate my colleagues on both sides of the aisle for their hard work to reach a consensus on what we have come to know as the ''No Child Left Behind Act of 2001'' The Elementary and Secondary Education Act Authorization (H.R. 1) is a good bill and will improve education for millions of America's children. But Mr. Speaker we are leaving some of our children behind. I am talking about America's children in dire need of special education. I understand the agreement to deal with the funding issues posed by the Individuals with Disabilities Education Act, also known as IDEA, when it comes up for reauthorization next year. I do hope that Congress will agree that time is of the essence and that it is time to fix IDEA.

Mr. Speaker, I believe that IDEA is one of the most important civil rights laws ever signed into law. This legislation sends a message that in America, education is not a privilege, but a fundamental right belonging to all Americans. More than twenty-six years ago, on December 2, 1975 President Gerald Ford signed the ''Education for All Handicapped Children Act.'' This later became known as IDEA, the basic premise of this federal law, is that all children with disabilities have a federally protected civil right to have a federally protected civil right to have available to them a free appropriate public education that meets their education and related services needs in the least restrictive environment. The statutory right articulated in IDEA is grounded in the Constitution's guarantee of equal protection under law and the constitutional power of Congress to authorize and place conditions on participation in federal spending programs.

Mr. Speaker, in 1970, before enactment of the federal protections in IDEA, schools in America educated only one in five students with disabilities. More than one million students were excluded from public schools, and another 3.5 million did not receive appropriate services. Many states had laws excluding certain students, including those who were blind, deaf, or labeled ''emotionally disturbed'' or ''mentally retarded.'' Almost 200,000 school-age children with mental retardation or emotional disabilities were institutionalized. The likelihood of exclusion was greater for children with disabilities living in low-income, ethnic and racial minority, or rural communities. A recent government study published by the National Council on Disability finds that 25 years after enactment of IDEA, not one single state is in compliance. States cannot afford to be in compliance. States' school boards are trying to meet the requirements of IDEA but are struggling because the Federal government has not fulfilled its commitment to provide funding at 40% of the average per pupil expenditure to assist with the costs of educating students with disabilities.

Today IDEA is funded at about 14.9% of the average per pupil expenditure—much higher than the 7 percent of 5 years ago, but this, as we all know in this room today, is not good enough. We must continue to increase funding to reach the 40 percent of the average pupil expenditure funding level mandated in law. I can tell you that the schools in my district are struggling to carry out IDEA, and my concern is that without the 40% percent federal support, we will see a backlash against those students with disabilities. Congress must fulfill its commitment assist States and localities with educating children with disabilities. Congress must ensure that the Federal government lives up to the promises it made to the students, parents, and schools more than two decades ago. Congress needs to fully fund IDEA and maintain its commitment to existing federal educational programs. We should ensure that children with disabilities receive a free and appropriate public education and at the same time ensure that all children have the best education possible.

Mr. Speaker, IDEA is a landmark civil rights law that was intended to open the doors to

education and success for more than six million American children each year. This was followed by another landmark civil rights law, the Americans with Disabilities Act (ADA) which was signed by President Bush in 1990. It is my hope that this President will follow these former Presidents and show our Nation that indeed no child will be left behind and that when IDEA comes up for reauthorization that he too leaves a legacy for protecting the rights or people with disabilities.

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

H.R. 1 will help to close the gap between disadvantaged children and their more affluent peers, and between minority and non-minority students. The conference report includes unprecedented targeting of Title I funds to the neediest communities. The 50 school districts with the highest percentage of poor students will receive a 10% increase in Title I funding solely as a result of proposed Title I formula grants. In addition, Title I schools will receive more funds due to increases in appropriations. Congress, and the country at-large, cannot continue to ignore the gap between rich and poor and minority and non-minority students. This bill represents a fight against the status quo.

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

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

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

I contacted major disability groups, such as, The Arc and the Easter Seal Society. These groups expressed their disappointment in the loss of IDEA funding. The NEA, AFT, and NSBA offered similar opinions on the bill. All three groups also express disappointment that Congress could not agree to fulfill its promise to fully-fund IDEA at 40 percent. Congress made a commitment 26 years ago to fund federally mandated special education programs at 40 percent of average per pupil expenditures. By simply fulfilling our promise to fully fund our share of IDEA, Congress could improve public education three-fold. First, school districts would have substantial resources freed up for other essential or innovative educational programs. Second, we would remove the unpredictability of the annual appropriations process, replacing confusion with stability for local schools when formulating their budgets. And last but not least—we would be giving special education students the tools needed to overcome the many obstacles they face on a daily basis. Despite this shortcoming, these groups support the goals of raising achievement, increasing accountability, and improving teacher quality, and I agree with them.

I believe the education of the 21st century must change to suit different learning styles and include a wider variety of programming that focuses on the application of classroom lessons—math, science, social sciences—to real world situations. Too often, lessons are taught in a way that makes it difficult to connect book lessons to the real world; we must better bridge this gap. In a world that evolves more closely everyday, 2nd language classes should be encouraged at early ages. We simply must ensure that our education system keeps up with our world. We are in a critical transition stage; new techniques, new ideas, and new visions must be the order of the day, in order for our students to remain competitive.

We have the opportunity to uncap a wealth of human resources that lay under-appreciated and underestimated in urban and rural school districts across the country. The next generation of great thinkers, writers, scientists, doctors, educators, actors and lawmakers, are waiting for us to activate and motivate them. It is our responsibility to devise a new definition of success. We must let our students know that our future is nothing without them. it is our responsibility to show them that there is a world that they can—not only be a part of—but also change and improve. If we invest in our students, we invest in a future of innovation and growth. The H.R. 1 conference agreement is a strong, positive step toward a new education system that focuses on preparing our youth to make our world the best it can be. I urge all may colleagues to support the passage of this conference report.

Mr. EHLERS. Mr. Speaker, I rise in strong support of H.R. 1, the No Child Left Behind Act Conference Report. I commend our Chairman for his strong leadership and members of the conference committee for their tireless efforts to send a bill to the President's desk before we adjourn this session. As a scientist and former professor with twenty-two years of experience working at the K–12 level to improve math and science education, I have tried to bring my expertise to the table in the drafting of this legislation.

H.R. 1 encompasses the four elements of President Bush's education reform plan: demanding results from states and schools, providing flexibility in the use of federal funds, reducing the red tape in federal programs, and expanding school choice. This legislation will do much to close the achievement gap between our nation's rich and poor students.

This legislation also addresses another achievement gap—the gap between U.S. students and their international peers in science. International tests place our students in the bottom third of industrialized nations in their performance in science, and dead last in high school physics. Recently, the Department of Education released results from the 2000 NAEP and found no improvement in science literacy in grades 4 and 8, and a decline in science performance in grade 12 since 1996. Science education is vitally important to our country's economic and national security, and we must hold states and schools accountable for student performance in science, as well as reading and math.

The conferees recognize the importance of science education by requiring states to set standards in science by the 2005–2006 school year. I am pleased that the conference report also includes my amendment to H.R. 1, which requires states and schools to test students in science by the 2007–2008 school year.

Such testing requires that teachers be knowledgeable in—and skilled in the teaching of—science and math. Professional development for science and math teachers is vitally important, and I am pleased to see the conference report incorporate my legislation to create summer professional development institutes in the math-science partnership program. These math-science partnerships of higher education institutions, states, and schools will provide sustained, high-quality professional development through these institutes for our Nation's math and science teachers. I am hopeful that the conference report authorization of $450 million for this crucial program will be fully funded. While this bill will do much to improve our nation's math and science education, work remains to ensure that sufficient resources are made available in the appropriations process for math and science professional development. I encourage my colleagues to finish the job and fully fund the math and science partnerships for fiscal year 2002.

Again, I would like to thank the Chairman for working with me to incorporate my science education provisions into the conference report and I again thank the conferees for producing this excellent compromise legislation. I yield back the balance of my time.

Ms. KILPATRICK. Mr. Speaker. I rise today in support of H.R. 1, ''The Leave No Child Behind Act.'' I thank the leadership from both sides of the aisle, Chairman BOEHNER and Ranking Member MILLER, for their diligence and commitment in constructing a bipartisan bill that represents a promising framework for our public educational system. The promise of a brighter future for all our nation's children through excellence in education should be the most important goal for Congress.

This Conference Report contains promising steps to improving education for our nation's students by providing significant increases in educational funding for key programs. The increase in Title I funding will help to close the achievement gap that currently exists between low-income, disadvantaged students and their more affluent peers. It provides funding for after-school programs that ensure our children have access to quality, enriching programs during non-school hours. It provides funding to improve teacher quality in our nation's classrooms and gives States and local districts flexibility over the use of federal funds in order to improve the level of achievement for all students. The Conference Report also includes funding for school construction, strong civil rights protections and funding for hate-crime prevention, which Democrats fought hard to

include. This bill also affords parents the tools they need to ensure that their children are receiving a quality education.

However, as I do rise in support of this bill, it is not without reservation. In a year where the President and Congress have pledged to ''leave no child behind,'' we, unfortunately, do not fulfill this commitment to those children with special education needs. Congress needs to make funding for special education mandatory, so that schools, teachers, and students with special education needs will have the tools they need to perform successfully. Congress also needs to continue its commitment to excellence in education and realize the need to provide more funding in the years ahead to ensure that our nation's public schools are able to meet the requirements laid out in this bill and face the challenges ahead of them.

I am hopeful that this bill puts us on the right track to meeting the educational needs of all of America's students. I urge Congress to commit to providing additional resources for educational programs and providing full funding for special education. This will ensure that we meet the goal of educational excellence for all our nation's youth.

Mr. HORN. Mr. Speaker, today the House takes up historic legislation. We will consider the conference report for H.R. 1, the No Child Left Behind Act of 2001, which will provide the most significant education legislation since Congress enacted the Elementary and Secondary Education Act in 1965 and I am very proud to be a cosponsor of the original legislation and to play a small role in the landmark reforms the legislation enacts.

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

H.R. 1 also helps schools help themselves. If a school fails to demonstrate adequate yearly progress, it is given the assistance it needs to turn itself around. At the same time, students can transfer out of that school. They are not stuck in a school that cannot teach them what they need to know. Additionally, students in schools that chronically fail to demonstrate progress are given the supplemental education services they need to catch up with their peers in better performing schools.

I am particularly pleased with the ''Reading First Initiative'' created by H.R. 1. Today, almost 70 percent of fourth graders in our poorest schools cannot read. If a student cannot read by the fourth grade, he or she will continue to fall further and further behind his or her peers. Obviously, we must do something to make sure that these children develop the skills necessary for a successful academic career and a productive life. H.R. 1 triples federal funding for scientifically based literacy programs to a total $900 million for next year. This ''Reading First'' initiative will ensure that every child, no matter his or her background, can read by the third grade. Addressing reading problems early will also prevent children from being mistakenly classified as special needs and entering an already over-taxed and underfunded special education system.

H.R. 1 demonstrates our bipartisan commitment to improving educational opportunities for every child. this is our chance to radically reform education for all students. They deserve nothing less. I urge my colleagues to support the conference report and make sure that no child is left behind.

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

Without objection, the previous question is ordered on the conference report.

There was no objection.

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

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the conference report to accompany H.R. 1 will be followed by a 5-minute vote, if ordered, on the question of adopting H. Res. 314.

The vote was taken by electronic device, and there were—ayes 381, noes 41, not voting 12, as follows:

[Roll No. 497]

AYES—381

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Petri
Phelps
Pickering
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sanchez
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOES—41

Akin
Bartlett
Burton
Capuano
Crane
Culberson
DeLay
Duncan
Filner
Flake
Frank
Gilchrest
Goode
Gutknecht
Hefley
Hoekstra
Jones (NC)
Kennedy (MN)
Kerns
Lewis (KY)
Manzullo
McCollum
Moran (KS)
Paul
Pence
Peterson (MN)
Pitts
Ramstad
Rohrabacher
Ryun (KS)
Sabo
Sanders
Schaffer
Sensenbrenner
Sessions

Shadegg
Stearns
Tancredo
Taylor (NC)
Tiahrt
Weldon (FL)

NOT VOTING—12

Brady (TX)
Brown (OH)
Cubin
Gonzalez
Hostettler
Larson (CT)
Luther
Meek (FL)
Olver
Ros-Lehtinen
Waters
Young (AK)

□ 1442

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

Mrs. NORTHUP changed her vote from ''no'' to ''aye.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

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

PROVIDING FOR MOTIONS TO SUSPEND THE RULES

The SPEAKER pro tempore (Mr. THORNBERRY). The pending business is the question de novo on agreeing to the resolution, H. Res. 314, on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TIERNEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 306, noes 100, not voting 27, as follows:

[Roll No. 498]

AYES—306

Abercrombie
Ackerman
Aderholt
Akin
Allen
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Culberson
Cummings
Cunningham
Davis (FL)
Davis, Jo Ann
Deal
Delahunt
DeLay
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Engel
English
Eshoo
Evans
Everett
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hulshof
Hunter
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Rivers
Roemer
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOES—100

Andrews
Baca
Baird
Baldwin
Barrett
Becerra
Blumenauer
Bonior
Brown (FL)
Capps
Capuano
Carson (IN)
Clayton
Condit
Conyers
Crowley
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Doggett
Etheridge
Farr
Filner
Frank
Gephardt
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hoyer
Inslee
Jones (OH)
Kaptur
Kildee
Kilpatrick
Kucinich
Lampson
Langevin
Levin
Lofgren
Lowey
Lynch
Maloney (NY)
Markey
Matsui
McCollum
McDermott
McGovern
McKinney
Menendez
Miller, George
Mink
Moore
Napolitano
Neal
Oberstar
Owens
Pallone
Payne
Pelosi
Price (NC)
Rangel
Reyes
Rodriguez
Sabo
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tauscher
Tierney
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler

NOT VOTING—27

Brady (TX)
Brown (OH)
Cubin
Davis, Tom
DeMint
Diaz-Balart
Dingell
Ehlers
Emerson
Gallegly
Gonzalez
Hostettler
Hyde
Lantos
Larson (CT)
Luther
McNulty
Meek (FL)
Meeks (NY)
Obey
Olver
Rogers (KY)
Ros-Lehtinen
Roukema
Sanchez
Waters
Young (AK)

□ 1454

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LARSON of Connecticut. Mr. Speaker, I unfortunately was required to attend a funeral in my Congressional District today and mised roll call vote No. 498. Had I been present and voting, I would have voted ''aye''.

Mr. EHLERS. Mr. Speaker, on rollcall No. 498 I failed to receive notice that this vote was being held. Had I been present, I would have voted ''aye.''

GENERAL LEAVE

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

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

There was no objection.

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

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

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 289

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

(1) Insert before such title IX the following:

TITLE IX—GENERAL PROVISIONS

SEC. 901. GENERAL PROVISIONS.

Title IX (20 U.S.C. 7801 et seq.) is amended to read as follows:

(2) Insert at the end of such title IX closed quotation marks and a period.

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

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

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

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

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

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

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

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

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute.)

Mr. MENENDEZ. Mr. Speaker, I take this time to inquire about next week's schedule.

I am pleased to yield to the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to announce that the House has completed its legislative business for the week.

The House will next meet for legislative business on Tuesday, December 18, at 12:30 p.m. for morning hour debate, and 2 o'clock p.m. for legislative business. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. On Tuesday, no recorded votes are expected before 6:30 p.m.

Mr. Speaker, I would also like to report that we are continuing to work very hard on the economic security package. It is my hope that I will be able to schedule it for consideration in the House on next Tuesday night.

On Wednesday and the balance of the week, the House will consider the following measures to complete our business for the year: The Labor, Health and Human Services, and Education Appropriations Conference Report; the Department of Defense Appropriations Conference Report; and the Foreign Operations Appropriations Conference Report.

Mr. MENENDEZ. Mr. Speaker, reclaiming my time, am I to understand from the gentleman's statement that Members should expect the stimulus bill on the floor Tuesday after the votes at 6:30?

Mr. ARMEY. Mr. Speaker, I thank the gentleman for that inquiry. I can see that quiet look of confident optimism on the face of the gentleman from New York (Mr. RANGEL) behind the gentleman, so it encourages me, knock on wood.

Mr. Speaker, I would say this is a very important piece of legislation. It is important to the Nation.

□ 1500

We are working hard in this conference, and I believe we are working in good faith with one another. We are preparing ourselves for the completion of the year's work which we would anticipate would involve our being able to do the stimulus package Tuesday night and the remaining appropriations bills. That will mean that there will be a lot of very hard work done in all of these conferences between now and then. But I believe the time is drawing near that we must redouble our efforts and come to these opportunities for closure.

So I would tell our Members that we would expect that we would be able to go to work on the floor and have the debate on a rule regarding the stimulus package between 5:30 and 6:30 on Tuesday evening next; we would expect to have the suspension votes and that rule vote; and then, after that period of time, sometime Tuesday night, 7:00, 7:30, we would be expecting to be taking up debate on the stimulus package.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman.

I have two further questions. The broadband Tauzin-Dingell bill is not on the schedule. Does that mean it is not going to happen in this year?

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, let me again thank the gentleman for the question. Mr. Speaker, I believe the broadband bill should be expected sometime in March of next year.

Mr. MENENDEZ. March of next year.

Finally, Mr. Speaker, I see that the gentleman is saying that we hope to end on Thursday. Can Members expect to be done for the year on Thursday?

Mr. ARMEY. Mr. Speaker, I thank the gentleman for the inquiry, and let me just say to the gentleman, with all my heart I hope so, and to the very best of my ability to understand it, I expect so.

Mr. OBEY. Mr. Speaker, would the gentleman yield?

Mr. MENENDEZ. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would appreciate it if the majority leader could respond to one question. As he knows, one of the contentious items still remaining is the final disposition of the supplemental, and the issue within that that is causing the most heartburn is whether there will be any significant increase in funding for homeland security.

In light of the fact that I note today that a coalition of Mayors and Governors have appealed to the Congress and the White House to provide funds in addition to those being requested by the administration for things such as aid to local communities for homeland security costs and aid to local communities to upgrade their public health services; and in light of the fact that Governor Engler has been one of the lead spokesmen on that, I would simply ask the gentleman, again, within the leadership circles on that side of the aisle, to urge that we listen to those expressions of concern and find a way to provide at least the amount that was provided in the Senate action early last week on homeland security.

Mr. ARMEY. Mr. Speaker, let me thank the gentleman for those observations, and if the gentleman from New Jersey would continue to yield, let me just say that we have great confidence in the conferees on this bill. We obviously understand, and the President has said repeatedly, that additional requests in order to repair the damage that has been inflicted to compensate for the hardships endured and prepare America for a reaffirmation of its own soundness is something that he expects to send to us early next year, and it may be that many of these eleventh-hour requests will be considered in the White House at that time. I thank the gentleman for his interest.

Mr. OBEY. Mr. Speaker, I thank the gentleman from New Jersey for yielding. I hope that we can respond to the Governors' and the Mayors' request this year rather than next.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for his answers, and I simply hope that on the stimulus package we can certainly respond to the growing unemployment needs of working men and women who have suffered as a result of September 11. As we seek to finalize that work, hopefully we can also give them hope as we approach the holiday season.

ADJOURNMENT TO MONDAY, DECEMBER 17, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, DECEMBER 18, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the

House adjourns on Monday, December 17, 2001, it adjourn to meet at 12:30 p.m. on Tuesday, December 18 for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

VICTIMS OF TERRORISM RELIEF ACT OF 2001

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that it be in order at any time to take from the Speaker's table the bill (H.R. 2884) to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with Senate amendments thereto, and to consider in the House, without intervention of any point of order, any motion, or any demand for division of the question, a single motion offered by the chairman of the Committee on Ways and Means or his designee that the House concur in the Senate amendments with the amendment I have placed at the desk; that the Senate amendments and the motion be considered as read; that the motion be debatable for 40 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and that after such debate, the motion be considered as adopted; and that the amendment I have placed at the desk be considered as read for the purpose of this request.

The Clerk read the title of the bill.

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

Mr. RANGEL. Mr. Speaker, reserving the right to object. Mr. Speaker, I would ask the gentleman from California to describe the substance of the bill before us today and how it differs from the bill that was passed by the Senate.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, perhaps in the explanation if we could start with the bill that originated in the House, which was an attempt to take current law that is available to service members and civilians overseas in a terrorist attack, which would provide income tax relief and estate tax relief, and we brought them to the gentleman's city to say that the New York area was, in fact, tantamount to a war zone and that the victims in that area should receive the same benefit as current law provides for people who are victims of terrorist acts overseas. That was the sum and substance of the bill we sent to the Senate.

For the 3 months that the Senate has had the bill, they examined it in a number of different ways. They added a particular death benefit for those individuals who were involved not only in the September 11 terrorist attacks, but also the Oklahoma City bombing of 6 years ago and for those individuals who, through no fault of their own, were victims from anthrax attacks.

In addition to that, they added a number of particular provisions dealing with charitable organizations, disaster relief payments, victims' compensation funds, and a number of other items.

What we did was examine those items and, where it was appropriate, offer a generic response. I will give the gentleman an example. Oftentimes, in dealing with disaster situations, disability trust funds will be established for individuals. The problem has been there has been no consistent approach to the way in which those disability funds would be treated from disaster to disaster. However, there is a typical response which occurs, but it has never been codified.

What we tried to do in this, working together, is to find those areas in terms of structured settlements, disability trusts, and similar arrangements that could be handled on a consistent basis, regardless of which disaster is involved, using this particular vehicle to assist us in that broad-based arrangement.

In addition to that, we have one additional amendment which examines the geographic area of New York that is a zone that is clearly described in the legislation and provide a number of tax measures to relieve those individuals, authorize the issue of tax-exempt private activity bonds, create a 30 percent bonus of depreciable property in the recovery zone as defined, a 10-year life on leaseholder build-outs for those individuals who own commercial property and want to rebuild it so that the vital aspects of New York City, which we visited, the restaurants and the shops and the others, can be restored as quickly as possible, and then extension of certain replacement period provisions which those of us on the Committee on Ways and Means know are extremely important in making sure that people make a decision quickly to move back in or to establish in the recovery zone to assist in the recovery of New York City.

Mr. RANGEL. Mr. Speaker, further reserving the right to object, could the chairman of the committee share with a member of the committee with whom he discussed the remedies for the problems that we face in this city? The chairman constantly referred to "we." Is there a particular group from the City of New York that the gentleman met and discussed these issues with?

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, I will tell the gentleman that I had the privilege at one time, for example, of accompanying the gentleman to Ground Zero, which I had not done, given the duties that we had here, and spent some time with a number of city business leaders that the gentleman and others were kind enough to bring together at the stock exchange location and, over lunch for several hours, listened to the particular concerns that those individuals had about the need and the way in which we needed to respond. I met with several New York City, New York State governmental teams, including the Mayor, and, of course, listening to on both sides of the aisle the members from the New York delegation, both from the city and the State.

In addition to that, as we all know, there are several other States that are just across the river and our colleagues from New Jersey and Pennsylvania had significant concerns as well. All of those came together culminating in this package today.

And I would be remiss if I did not thank the gentleman from New York (Mr. RANGEL) for his immediate and continuing offering and the members' willingness to accept his kind invitation to come and visit the city, albeit not in the way most of us had visited New York in the past on those wonderful trips that we used to have, but a very realistic trip to understand firsthand what had happened to the Big Apple.

Mr. RANGEL. Mr. Speaker, I withdraw my reservation, because it is so important to my city that we get as much relief as possible from both Houses. But it really never ceases to amaze me of the creative legislative ability of our distinguished chairman to bring together ideas and to pull them together without the input of the members of the committee, without hearings; it is just absolutely fascinating how the things that we have taken for granted that we do as a Congress or we do as a committee have been substituted by the inquiries that the Chair can make in the great City of New York and with people that have an interest in the City of New York.

So this is not the time to object; this is the time to move the consideration of this bill forward.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The text of the Senate amendments is as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Victims of Terrorism Tax Relief Act of 2001".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

Sec. 101. Income and employment taxes of victims of terrorist attacks.
Sec. 102. Estate tax reduction.
Sec. 103. Payments by charitable organizations treated as exempt payments.
Sec. 104. Exclusion of certain cancellations of indebtedness.
Sec. 105. Treatment of certain structured settlement payments and disability trusts.
Sec. 106. No impact on social security trust funds.

TITLE II—GENERAL RELIEF FOR VICTIMS OF DISASTERS AND TERRORISTIC OR MILITARY ACTIONS

Sec. 201. Exclusion for disaster relief payments.
Sec. 202. Authority to postpone certain deadlines and required actions.
Sec. 203. Internal Revenue Service disaster response team.
Sec. 204. Application of certain provisions to terroristic or military actions.
Sec. 205. Clarification of due date for airline excise tax deposits.
Sec. 206. Coordination with Air Transportation Safety and System Stabilization Act.

TITLE III—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 301. Disclosure of tax information in terrorism and national security investigations.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

SEC. 101. INCOME AND EMPLOYMENT TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

''(d) INDIVIDUALS DYING AS A RESULT OF CERTAIN TERRORIST ATTACKS.—

''(1) IN GENERAL.—In the case of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or who dies as a result of illness incurred as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, any tax imposed by this subtitle shall not apply—

''(A) with respect to the taxable year in which falls the date of such individual's death, and

''(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness were incurred.

''(2) EXCEPTIONS.—

''(A) TAXATION OF CERTAIN BENEFITS.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this subtitle which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

''(i) amounts payable in the taxable year by reason of the death of an individual described in paragraph (1) which would have been payable in such taxable year if the death had occurred by reason of an event other than an event described in paragraph (1), or

''(ii) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after the date of the applicable terrorist attack.

''(B) NO RELIEF FOR PERPETRATORS.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any event described in paragraph (1), or a representative of such individual.''.

(b) REFUND OF OTHER TAXES PAID.—Section 692, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(e) REFUND OF OTHER TAXES PAID.—In determining the amount of tax under this section to be credited or refunded as an overpayment with respect to any individual for any period, such amount shall be increased by an amount equal to the amount of taxes imposed and collected under chapter 21 and sections 3201(a), 3211(a)(1), and 3221(a) with respect to such individual for such period.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting ''and victims of certain terrorist attacks'' before ''on death''.

(2) Section 6013(f)(2)(B) is amended by inserting ''and victims of certain terrorist attacks'' before ''on death''.

(d) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

''SEC. 692. INCOME AND EMPLOYMENT TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.''.

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

''Sec. 692. Income and employment taxes of members of Armed Forces and victims of certain terrorist attacks on death.''.

(e) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. ESTATE TAX REDUCTION.

(a) IN GENERAL.—Section 2201 is amended to read as follows:

''SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

''(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying section 2001 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

''(b) QUALIFIED DECEDENT.—For purposes of this section, the term 'qualified decedent' means—

''(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

''(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

''(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, or

''(2) any individual who died as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or who died as a result of illness incurred as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002. Paragraph (2) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any such terrorist attack, or a representative of such individual.

''(c) RATE SCHEDULE.—

''If the amount with respect to which the tentative tax to be computed is:	*The tentative tax is:*
Not over $150,000	*1 percent of the amount by which such amount exceeds $100,000.*
Over $150,000 but not over $200,000.	*$500 plus 2 percent of the excess over $150,000.*
Over $200,000 but not over $300,000.	*$1,500 plus 3 percent of the excess over $200,000.*
Over $300,000 but not over $500,000.	*$4,500 plus 4 percent of the excess over $300,000.*
Over $500,000 but not over $700,000.	*$12,500 plus 5 percent of the excess over $500,000.*
Over $700,000 but not over $900,000.	*$22,500 plus 6 percent of the excess over $700,000.*
Over $900,000 but not over $1,100,000.	*$34,500 plus 7 percent of the excess over $900,000.*
Over $1,100,000 but not over $1,600,000.	*$48,500 plus 8 percent of the excess over $1,100,000.*
Over $1,600,000 but not over $2,100,000.	*$88,500 plus 9 percent of the excess over $1,600,000.*
Over $2,100,000 but not over $2,600,000.	*$133,500 plus 10 percent of the excess over $2,100,000.*
Over $2,600,000 but not over $3,100,000.	*$183,500 plus 11 percent of the excess over $2,600,000.*
Over $3,100,000 but not over $3,600,000.	*$238,500 plus 12 percent of the excess over $3,100,000.*
Over $3,600,000 but not over $4,100,000.	*$298,500 plus 13 percent of the excess over $3,600,000.*
Over $4,100,000 but not over $5,100,000.	*$363,500 plus 14 percent of the excess over $4,100,000.*
Over $5,100,000 but not over $6,100,000.	*$503,500 plus 15 percent of the excess over $5,100,000.*
Over $6,100,000 but not over $7,100,000.	*$653,500 plus 16 percent of the excess over $6,100,000.*
Over $7,100,000 but not over $8,100,000.	*$813,500 plus 17 percent of the excess over $7,100,000.*
Over $8,100,000 but not over $9,100,000.	*$983,500 plus 18 percent of the excess over $8,100,000.*
Over $9,100,000 but not over $10,100,000.	*$1,163,500 plus 19 percent of the excess over $9,100,000.*
Over $10,100,000	*$1,353,500 plus 20 percent of the excess over $10,100,000.*

''(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking ''section 2011(e)'' and inserting ''section 2011(d)''.

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

''Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.''.

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 104. EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, and

(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

SEC. 105. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS AND DISABILITY TRUSTS.

(a) IMPOSITION OF EXCISE TAX ON PERSONS WHO ACQUIRE CERTAIN STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS.—

(1) IN GENERAL.—Subtitle E is amended by adding at the end the following new chapter:

"CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

''Sec. 5891. Structured settlement factoring transactions for certain victims of terrorism.

"SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS FOR CERTAIN VICTIMS OF TERRORISM.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

''(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—

''(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

''(2) QUALIFIED ORDER.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

''(A) finds that the transfer described in paragraph (1)—

''(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

''(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

''(B) is issued—

''(i) under the authority of an applicable State statute by an applicable State court, or

''(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

''(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

''(A) the State in which the payee of the structured settlement is domiciled, or

''(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

''(4) APPLICABLE STATE COURT.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

''(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

''(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

''(c) DEFINITIONS.—For purposes of this section—

''(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

''(A) which is established by—

''(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

''(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

''(B) under which the periodic payments are—

''(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

''(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

''(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement relating to claims for death, wounding, injury, or illness as a result of the terrorist attacks against the United States on September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

''(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

''(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

''(B) EXCEPTION.—Such term shall not include—

''(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

''(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

''(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

''(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

''(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

''(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term 'responsible administrative authority' means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

''(6) STATE.—The term 'State' includes the Commonwealth of Puerto Rico and any possession of the United States.

''(d) COORDINATION WITH OTHER PROVISIONS.—

''(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

''(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.

''(3) NO INFERENCE.—No inference shall be drawn from the application of this subsection to only those payment rights described in subsection (c)(2).''.

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

''Chapter 55. Structured settlement factoring transactions.''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this subsection) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(B) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after such 30th day.

(C) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(i) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been

approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(I) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(II) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(ii) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

(b) PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.—

(1) IN GENERAL.—Section 642(b) (relating to deduction for personal exemption) is amended—

(A) by striking ''An estate'' and inserting:

''(1) IN GENERAL.—An estate'', and

(2) by adding at the end the following new paragraph:

''(2) FULL PERSONAL EXEMPTION AMOUNT FOR CERTAIN DISABILITY TRUSTS.—Paragraph (1) shall not apply, and the deduction under section 151 shall apply, to any disability trust described in subsection (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of section 1917 of the Social Security Act (42 U.S.C. 1396p) for a beneficiary disabled as the result of a wounding, injury, or illness as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.''.

(2) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(A) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending before, on, or after September 11, 2001.

(B) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this subsection is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 106. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this title (or an amendment made by this title) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

TITLE II—GENERAL RELIEF FOR VICTIMS OF DISASTERS AND TERRORISTIC OR MILITARY ACTIONS

SEC. 201. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

''SEC. 139. DISASTER RELIEF PAYMENTS.

''(a) GENERAL RULE.—Gross income shall not include—

''(1) any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act, or

''(2) any amount received by an individual as a qualified disaster relief payment.

''(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster relief payment' means any amount paid to or for the benefit of an individual—

''(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

''(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

''(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

''(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

''(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term 'qualified disaster' means—

''(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

''(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

''(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

''(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

''(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

''(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsection (a) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.''.

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

''Sec. 139. Disaster relief payments.

''Sec. 140. Cross references to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 202. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

''SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

''(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

''(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

''(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

''(3) the amount of any credit or refund.

''(b) SPECIAL RULES REGARDING PENSIONS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

''(c) SPECIAL RULES FOR OVERPAYMENTS.—The rules of section 7508(b) shall apply for purposes of this section.''.

(b) CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking ''in regulations prescribed under this section''.

(c) CONFORMING AMENDMENTS TO ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

''SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

''In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.''.

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES REGARDING DISASTERS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in

section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.''.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

''(i) CROSS REFERENCE.—

"For authority of the Secretary to abate certain amounts by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(2) Section 6081(c) is amended to read as follows:

''(c) CROSS REFERENCES.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

''(3) POSTPONEMENT OF CERTAIN ACTS.—

"For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.".

(d) CLERICAL AMENDMENTS.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

''Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.''.

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

''Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 203. INTERNAL REVENUE SERVICE DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7508A, as amended by section 202(a), is amended by adding at the end the following new subsection:

''(d) DUTIES OF DISASTER RESPONSE TEAM.—The Secretary shall establish as a permanent office in the national office of the Internal Revenue Service a disaster response team which, in coordination with the Federal Emergency Management Agency, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 204. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) EXCLUSION FOR DEATH BENEFITS.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(i) CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH FROM TERRORISTIC OR MILITARY ACTIONS.—

''(1) IN GENERAL.—Gross income does not include amounts which are received (whether in a single sum or otherwise) if such amounts are paid by an employer by reason of the death of an employee incurred as a result of a terroristic or military action (as defined in section 692(c)(2)).

''(2) NO RELIEF FOR CERTAIN INDIVIDUALS.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

''(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, the term 'employee' includes a self-employed person (as described in section 401(c)(1)).''.

(b) DISABILITY INCOME.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking ''a violent attack'' and all that follows through the period and inserting ''a terroristic or military action (as defined in section 692(c)(2)).''.

(c) EXEMPTION FROM INCOME TAX FOR CERTAIN MILITARY OR CIVILIAN EMPLOYEES.—Section 692(c) is amended—

(1) by striking ''outside the United States'' in paragraph (1), and

(2) by striking ''SUSTAINED OVERSEAS'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 205. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) IN GENERAL.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

''(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 206. COORDINATION WITH AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

No reduction in Federal tax liability by reason of any provision of, or amendment made by, this Act shall be considered as being received from a collateral source for purposes of section 402(4) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

TITLE III—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 301. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

''(C) TERRORIST ACTIVITIES, ETC.—

''(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity.

The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

''(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

''(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

''(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.''.

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

''(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

''(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

''(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

''(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

''(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

''(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

''(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

''(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

''(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

''(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

''(I) is made by an individual described in clause (iii), and

''(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

''(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

''(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

''(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

''(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

''(C) DISCLOSURE UNDER EX PARTE ORDERS.—

''(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

''(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

''(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

''(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

''(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

''(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

''(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

''(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

''(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

''(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting ''any local law enforcement agency receiving information under subsection (i)(7)(A),'' after ''State,''.

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

''(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term 'terrorist incident, threat, or activity' means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).''.

(3) The heading of section 6103(i)(3) is amended by inserting ''OR TERRORIST'' after ''CRIMINAL''.

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting ''or (7)(C)'' after ''paragraph (1)'', and

(B) in subparagraph (B) by striking ''or (3)(A)'' and inserting ''(3)(A) or (C), or (7)''.

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking ''(3)(A)'' and inserting ''(3)(A) or (C)'', and

(B) by striking ''or (7)'' and inserting ''(7), or (8)''.

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking ''(7)(A)(ii)'' and inserting ''(8)(A)(ii)'', and

(B) in subparagraph (C) by striking ''(i)(3)(B)(i)'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii)''.

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''or (5),'' the first place it appears and inserting ''(5), or (7),'', and

(ii) by striking ''(i)(3)(B)(i),'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii),'', and

(B) in subparagraph (F)(ii) by striking ''or (5),'' the first place it appears and inserting ''(5) or (7),''.

(8) Section 6103(p)(6)(B)(i) is amended by striking ''(i)(7)(A)(ii)'' and inserting ''(i)(8)(A)(ii)''.

(9) Section 6105(b) is amended—

(A) by striking ''or'' at the end of paragraph (2),

(B) by striking ''paragraphs (1) or (2)'' in paragraph (3) and inserting ''paragraph (1), (2), or (3)'',

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

''(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or''.

(10) Section 7213(a)(2) is amended by striking ''(i)(3)(B)(i),'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States, and for other purposes.''.

MOTION OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, pursuant to the order of the House, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. THOMAS moves that:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Victims of Terrorism Tax Relief Act of 2001''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

Sec. 101. Income taxes of victims of terrorist attacks.
Sec. 102. Exclusion of certain death benefits.
Sec. 103. Estate tax reduction.
Sec. 104. Payments by charitable organizations treated as exempt payments.

TITLE II—OTHER RELIEF PROVISIONS

Sec. 201. Exclusion for disaster relief payments.
Sec. 202. Authority to postpone certain deadlines and required actions.
Sec. 203. Application of certain provisions to terroristic or military actions.
Sec. 204. Clarification of due date for airline excise tax deposits.
Sec. 205. Treatment of certain structured settlement payments.
Sec. 206. Personal exemption deduction for certain disability trusts.

TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

Sec. 301. Tax benefits for area of New York City damaged in terrorist attacks on September 11, 2001.

TITLE IV—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

Sec. 401. Disclosure of tax information in terrorism and national security investigations.

TITLE V—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

Sec. 501. No impact on social security trust funds.

TITLE I—RELIEF PROVISIONS FOR VICTIMS OF TERRORIST ATTACKS

SEC. 101. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

''(d) INDIVIDUALS DYING AS A RESULT OF CERTAIN ATTACKS.—

''(1) IN GENERAL.—In the case of a specified terrorist victim, any tax imposed by this chapter shall not apply—

''(A) with respect to the taxable year in which falls the date of death, and

''(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness referred to in paragraph (2) were incurred.

''(2) SPECIFIED TERRORIST VICTIM.—For purposes of this subsection, the term 'specified terrorist victim' means any decedent—

''(A) who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

''(B) who dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Such term shall not include any individual identified by the Attorney General to have been a participant or conspirator in any such

attack or a representative of such an individual.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting ''and victims of certain terrorist attacks'' before ''on death''.

(2) Section 6013(f)(2)(B) is amended by inserting ''and victims of certain terrorist attacks'' before ''on death''.

(c) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

''SEC. 692. INCOME TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.''.

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

''Sec. 692. Income taxes of members of Armed Forces and victims of certain terrorist attacks on death.''.

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. EXCLUSION OF CERTAIN DEATH BENEFITS.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(i) CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH OF CERTAIN TERRORIST VICTIMS.—

''(1) IN GENERAL.—Gross income does not include amounts (whether in a single sum or otherwise) paid by an employer by reason of the death of an employee who is a specified terrorist victim (as defined in section 692(d)(2)).

''(2) LIMITATION.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to amounts which would have been payable if the individual had died other than as a specified terrorist victim (as so defined).

''(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)).''.

(b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. ESTATE TAX REDUCTION.

(a) IN GENERAL.—Section 2201 is amended to read as follows:

''SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

''(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying sections 2001 and 2101 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

''(b) QUALIFIED DECEDENT.—For purposes of this section, the term 'qualified decedent' means—

''(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

''(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

''(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, and

''(2) any specified terrorist victim (as defined in section 692(d)(2)).

''(c) RATE SCHEDULE.—

''If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $150,000	1 percent of the amount by which such amount exceeds $100,000.
Over $150,000 but not over $200,000.	$500 plus 2 percent of the excess over $150,000.
Over $200,000 but not over $300,000.	$1,500 plus 3 percent of the excess over $200,000.
Over $300,000 but not over $500,000.	$4,500 plus 4 percent of the excess over $300,000.
Over $500,000 but not over $700,000.	$12,500 plus 5 percent of the excess over $500,000.
Over $700,000 but not over $900,000.	$22,500 plus 6 percent of the excess over $700,000.
Over $900,000 but not over $1,100,000.	$34,500 plus 7 percent of the excess over $900,000.
Over $1,100,000 but not over $1,600,000.	$48,500 plus 8 percent of the excess over $1,100,000.
Over $1,600,000 but not over $2,100,000.	$88,500 plus 9 percent of the excess over $1,600,000.
Over $2,100,000 but not over $2,600,000.	$133,500 plus 10 percent of the excess over $2,100,000.
Over $2,600,000 but not over $3,100,000.	$183,500 plus 11 percent of the excess over $2,600,000.
Over $3,100,000 but not over $3,600,000.	$238,500 plus 12 percent of the excess over $3,100,000.
Over $3,600,000 but not over $4,100,000.	$298,500 plus 13 percent of the excess over $3,600,000.
Over $4,100,000 but not over $5,100,000.	$363,500 plus 14 percent of the excess over $4,100,000.
Over $5,100,000 but not over $6,100,000.	$503,500 plus 15 percent of the excess over $5,100,000.
Over $6,100,000 but not over $7,100,000.	$653,500 plus 16 percent of the excess over $6,100,000.
Over $7,100,000 but not over $8,100,000.	$813,500 plus 17 percent of the excess over $7,100,000.
Over $8,100,000 but not over $9,100,000.	$983,500 plus 18 percent of the excess over $8,100,000.
Over $9,100,000 but not over $10,100,000.	$1,163,500 plus 19 percent of the excess over $9,100,000.
Over $10,100,000	$1,353,500 plus 20 percent of the excess over $10,100,000.

''(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking ''section 2011(e)'' and inserting ''section 2011(d)''.

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

''Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.''.

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 104. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made—

(A) in good faith using a reasonable and objective formula which is consistently applied, and

(B) in furtherance of public rather than private purposes, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

TITLE II—OTHER RELIEF PROVISIONS

SEC. 201. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

''SEC. 139. DISASTER RELIEF PAYMENTS.

''(a) GENERAL RULE.—Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

''(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster relief payment' means any amount paid to or for the benefit of an individual—

''(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

''(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

''(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

''(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

''(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term 'qualified disaster' means—

''(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

''(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

''(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

''(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

''(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

''(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsections (a) and (f) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

''(f) EXCLUSION OF CERTAIN ADDITIONAL PAYMENTS.—Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act.''

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

''Sec. 139. Disaster relief payments.

''Sec. 140. Cross references to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 202. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

''SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

''(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

''(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

''(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

''(3) the amount of any credit or refund.

''(b) SPECIAL RULES REGARDING PENSIONS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

''(c) SPECIAL RULES FOR OVERPAYMENTS.—The rules of section 7508(b) shall apply for purposes of this section.''.

(b) CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking ''in regulations prescribed under this section''.

(c) CONFORMING AMENDMENTS TO ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

''SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

''In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.''.

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES REGARDING DISASTERS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.''.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

''(i) CROSS REFERENCE.—

''For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.''.

(2) Section 6081(c) is amended to read as follows:

''(c) CROSS REFERENCES.—

''For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.''.

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

''(3) POSTPONEMENT OF CERTAIN ACTS.—

''For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.''.

(d) CLERICAL AMENDMENTS.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

''Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.''.

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

''Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 203. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) DISABILITY INCOME.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking ''a violent attack'' and all that follows through the period and inserting ''a terroristic or military action (as defined in section 692(c)(2)).''.

(b) EXEMPTION FROM INCOME TAX FOR CERTAIN MILITARY OR CIVILIAN EMPLOYEES.—Section 692(c) is amended—

(1) by striking ''outside the United States'' in paragraph (1), and

(2) by striking ''SUSTAINED OVERSEAS'' in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 204. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) IN GENERAL.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

''(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 205. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.

(a) IN GENERAL.—Subtitle E is amended by adding at the end the following new chapter:

"CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

''Sec. 5891. Structured settlement factoring transactions.

"SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

''(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—

''(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

''(2) QUALIFIED ORDER.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

''(A) finds that the transfer described in paragraph (1)—

''(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

''(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

''(B) is issued—

''(i) under the authority of an applicable State statute by an applicable State court, or

''(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

''(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

''(A) the State in which the payee of the structured settlement is domiciled, or

''(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

''(4) APPLICABLE STATE COURT.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

''(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

''(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

''(c) DEFINITIONS.—For purposes of this section—

''(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

''(A) which is established by—

''(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

''(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

''(B) under which the periodic payments are—

''(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

''(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

''(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

''(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

''(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

''(B) EXCEPTION.—Such term shall not include—

''(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

''(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

''(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

''(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

''(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

''(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term 'responsible administrative authority' means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

''(6) STATE.—The term 'State' includes the Commonwealth of Puerto Rico and any possession of the United States.

''(d) COORDINATION WITH OTHER PROVISIONS.—

''(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

''(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

''Chapter 55. Structured settlement factoring transactions.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after such 30th day.

(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

SEC. 206. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.

(a) IN GENERAL.—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows:

''(b) DEDUCTION FOR PERSONAL EXEMPTION.—

''(1) ESTATES.—An estate shall be allowed a deduction of $600.

''(2) TRUSTS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of $100.

''(B) TRUSTS DISTRIBUTING INCOME CURRENTLY.—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300.

''(C) DISABILITY TRUSTS.—

''(i) IN GENERAL.—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

''(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

''(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

''(ii) QUALIFIED DISABILITY TRUST.—For purposes of clause (i), the term 'qualified disability trust' means any trust if—

''(I) such trust is a disability trust described in subsection (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

''(II) all of the beneficiaries of the trust as of the close of the taxable year are determined to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled.''

''(3) DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

TITLE III—TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

SEC. 301. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

''Subchapter Y—New York Liberty Zone Benefits

''Sec. 1400L. Tax benefits for New York Liberty Zone.

''SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.

''(a) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified New York Liberty Zone property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

''(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified New York Liberty Zone property' means property—

''(i)(I) to which section 168 applies (other than railroad grading and tunnel bores), or

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

''(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

''(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001, and

''(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, and placed in service by the taxpayer on or before the termination date, but only if no written binding contract for the acquisition was in effect before September 11, 2001.

The term 'termination date' means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

''(B) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified New York Liberty Zone property' shall not include any property to which the alternative depreciation system under section 168(g) applies, determined—

''(I) without regard to paragraph (7) of section 168(g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—Such term shall not include qualified leasehold improvement property.

''(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before the termination date.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(iii), if property—

''(I) is originally placed in service after September 10, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The deduction allowed by this subsection shall be allowed in determining alternative minimum taxable income under section 55.

''(b) 5-YEAR RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.—

''(1) IN GENERAL.—For purposes of section 168, the term '5-year property' includes any qualified leasehold improvement property.

''(2) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this section—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such building is located in the New York Liberty Zone,

''(ii) such improvement is made under or pursuant to a lease (as defined in section 168(h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(iii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion,

''(iv) such improvement is placed in service—

''(I) after September 10, 2001, and more than 3 years after the date the building was first placed in service, and

''(II) before January 1, 2007, and

''(v) no written binding contract for such improvement was in effect before September 11, 2001.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—

''(i) IN GENERAL.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.

''(ii) EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Property shall not cease to be qualified leasehold improvement property under clause (i) by reason of—

''(I) death,

''(II) a transaction to which section 381(a) applies, or

''(III) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business.

''(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—The applicable depreciation method under section 168 shall be the straight line method in the case of qualified leasehold improvement property.

''(4) 9-YEAR RECOVERY PERIOD UNDER ALTERNATIVE SYSTEM.—For purposes of section 168(g), the class life of qualified leasehold improvement property shall be 9 years.

''(c) INCREASE IN EXPENSING UNDER SECTION 179.—

''(1) IN GENERAL.—For purposes of section 179—

''(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

''(i) $35,000, or

''(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

''(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

''(2) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

''(d) TAX-EXEMPT BOND FINANCING.—

''(1) IN GENERAL.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

''(2) QUALIFIED NEW YORK LIBERTY BOND.—For purposes of this subsection, the term 'qualified New York Liberty Bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

''(B) such bond is issued by the State of New York or any political subdivision thereof,

''(C) the Governor of New York designates such bond for purposes of this section, and

''(D) such bond is issued during calendar year 2002, 2003, or 2004.

''(3) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed $15,000,000,000.

''(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified project costs' means the cost of acquisition, construction, reconstruction, and renovation of—

''(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

''(ii) public utility property located in the New York Liberty Zone.

''(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

''(C) LIMITATIONS.—Such term shall not include—

''(i) costs for property located outside the New York Liberty Zone to the extent such costs exceed $7,000,000,000,

''(ii) costs with respect to residential rental property to the extent such costs exceed $3,000,000,000, and

''(iii) costs with respect to property used for retail sales of tangible property to the extent such costs exceed $1,500,000,000.

''(D) MOVABLE FIXTURES AND EQUIPMENT.—Such term shall not include costs with respect to movable fixtures and equipment.

''(5) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

''(A) Section 146 (relating to volume cap) shall not apply.

''(B) Section 147(c) (relating to limitation on use for land acquisition) shall be determined by reference to the aggregate authorized face amount of all qualified New York Liberty Bonds rather than the net proceeds of each issue.

''(C) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting '50 percent' for '15 percent' each place it appears.

''(D) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to construction proceeds of bonds issued under this section.

''(E) Financing provided by such a bond shall not be taken into account under section 168(g)(5)(A) with respect to property substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone.

''(F) Repayments of principal on financing provided by the issue—

''(i) may not be used to provide financing, and

''(ii) are used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

''(G) Section 57(a)(5) shall not apply.

''(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to subsection (a)), if the issuer elects to so treat such portion.

''(e) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

''(f) NEW YORK LIBERTY ZONE.—For purposes of this section, the term 'New York Liberty Zone' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.''

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter Y. New York Liberty Zone Benefits.''

TITLE IV—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 401. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

''(C) TERRORIST ACTIVITIES, ETC.—

''(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

''(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

''(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

''(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.''.

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

''(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

''(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

''(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

''(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

''(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

''(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

''(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

''(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

''(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

''(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

''(I) is made by an individual described in clause (iii), and

''(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

''(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

''(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

''(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

''(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

''(C) DISCLOSURE UNDER EX PARTE ORDERS.—

''(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

''(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

''(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

''(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

''(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

''(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

''(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

''(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

''(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

''(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting ''any local law enforcement agency receiving information under subsection (i)(7)(A),'' after ''State,''.

(2) Section 6103(b) is amended by adding at the end the following new paragraph:

''(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term 'terrorist incident, threat, or activity' means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).''.

(3) The heading of section 6103(i)(3) is amended by inserting ''OR TERRORIST'' after ''CRIMINAL''.

(4) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting ''or (7)(C)'' after ''paragraph (1)'', and

(B) in subparagraph (B) by striking ''or (3)(A)'' and inserting ''(3)(A) or (C), or (7)''.

(5) Paragraph (6) of section 6103(i) is amended—

(A) by striking ''(3)(A)'' and inserting ''(3)(A) or (C)'', and

(B) by striking ''or (7)'' and inserting ''(7), or (8)''.

(6) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking ''(7)(A)(ii)'' and inserting ''(8)(A)(ii)'', and

(B) in subparagraph (C) by striking ''(i)(3)(B)(i)'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii)''.

(7) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''or (5),'' the first place it appears and inserting ''(5), or (7),'', and

(ii) by striking ''(i)(3)(B)(i),'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii),'', and

(B) in subparagraph (F)(ii) by striking ''or (5),'' the first place it appears and inserting ''(5) or (7),''.

(8) Section 6103(p)(6)(B)(i) is amended by striking ''(i)(7)(A)(ii)'' and inserting ''(i)(8)(A)(ii)''.

(9) Section 6105(b) is amended—

(A) by striking ''or'' at the end of paragraph (2),

(B) by striking ''paragraphs (1) or (2)'' in paragraph (3) and inserting ''paragraph (1), (2), or (3)'',

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

''(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or''.

(10) Section 7213(a)(2) is amended by striking ''(i)(3)(B)(i),'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

TITLE V—NO IMPACT ON SOCIAL SECURITY TRUST FUNDS

SEC. 501. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

Mr. Speaker, I want to thank the gentleman from New York for his kind observation. The Tuesday event precipitated a need for rapid response. On Thursday, the House moved. Three months later this bill now presents itself to us. I find it ironic that if the gentleman says he has been closed out of participation in this particular piece of legislation, the last time I checked, his party controlled the Senate and I would expect that at some time over the 3 months that the Senate was mulling over what it was going to do with this bill, he would have an opportunity to examine various provisions.

It is my pleasure to yield to the ranking member, the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, let me say this, that as long as the gentleman and I have served in this House of Representatives, I am confident that we will treasure this jurisdiction of the Committee on Ways and Means and try to protect it the best we can, no matter which party is in charge of this House. But I would hope that any Member of this House serving on any committee that has any interest in legislation in his or her jurisdiction would never have to appeal to the other body to be heard. I thank the gentleman for yielding.

□ 1515

Mr. THOMAS. Mr. Speaker, I appreciate the gentleman's comments. That means, then, that perhaps he was closed out on the other side, and that I will be doubly sensitive to make sure that if the gentleman's own Members on the other side will not work with him, that we will continue to work with him.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), someone who has had a major impact on this legislation.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) for their work.

Mr. Speaker, I am honored to stand here with several of my New York colleagues in introducing a bill which

really is going to provide much needed tax incentives for businesses to rebuild in lower Manhattan after all the massive destruction caused by the terrorist attacks of September 11.

None of us will ever forget the terrible losses of that day, the loss of life, and the most tragic being the heartache to so many families. The World Trade Center was destroyed, other buildings were damaged or collapsed, and of course the price tag is horrendous, here.

This bill includes really five provisions. I know it may be a little tedious, but I want to go through them, because I think it is important.

First of all, it is to authorize New York State to issue up to $15 billion in tax-exempt private activity bonds over the next 3 years to help renovate and rebuild commercial property, residential property, and also private utility infrastructure;

Second, it allows taxpayers to claim an additional 30 percent first-year depreciation deduction for property located in the liberty zone, including buildings and building improvements;

Third, it provides a 5-year life for depreciating certain leasehold improvements;

Fourth, next to the last, is to increase by $35,000 to $59,000 the amount that can be expensed by small businesses under section 179;

Lastly, it increases the replacement period for 2 to 5 years for property that was involuntarily converted in lower Manhattan so taxpayers would not have to recognize the gain.

Mr. Speaker, I know these are detailed and sometimes technical issues, but it is very important, and this bill can be the new lifeblood, the new hope, the expectancy of a rebuilt New York.

Therefore, I want to thank the gentleman from California (Chairman THOMAS), the gentleman from New York (Mr. RANGEL), and my colleagues for being able to work on this bill. Obviously, I urge everyone to support the bill.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the distinguished ranking member from the Committee on Ways and Means for yielding time to me.

Mr. Speaker, I rise in support of seeing that we provide full recognition in debt and tax relief for the surviving families from this terrible tragedy, this terrible event.

Mr. Speaker, the workers in the World Trade Center and the passengers on board these planes were targeted because they were Americans working in a symbolic building or on board American planes. They were victimized as much as if they were soldiers, and the surviving families have had the bottom yanked out from under their feet, under their lives.

I know that Americans, big-hearted in their generous support for these surviving families, want them to have tax relief: income, payroll, no taxability of debt, and credit card forgiveness. I know Americans, in their big-hearted generosity, want that for these people that they have reached out to.

Mr. Speaker, I hope that will be the result of this.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. FOSSELLA), someone who has been on top of this from day one, and I appreciate his advice and counsel.

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

Mr. FOSSELLA. Mr. Speaker, I thank the chairman for yielding time to me, and for his leadership on this matter. I thank my colleagues on both sides of the aisle for once again coming forward to assist New York in its time of need.

Mr. Speaker, we understand after September 11 that not only was New York and America attacked, but we have to come together as a country to help New York rebuild. Anybody who has been to downtown Manhattan, Ground Zero, as it has come to be known, has really witnessed devastation. We have seen the utter destruction, day in and day out. We have brave men and women who are still recovering the remains of those who were there and perished; but we also have just a scene out of a bad movie.

Simultaneously, what has happened is that a lot of businesses are hurting. A lot of businesses who employ thousands of people in downtown Manhattan are either going out of business or are on the brink of bankruptcy, with employees who perhaps have no health insurance.

A lot of different problems have resonated since September 11 above and beyond, if you will, the utter destruction that has taken place. What the gentleman from California (Chairman THOMAS) and the gentleman from New York (Mr. HOUGHTON) who have stood up before will do in this proposal is provide incentives for businesses to come back to New York, back to downtown Manhattan specifically in this newly-created zone, and to build, whether it is through accelerated small business expensing benefits or a 5-year recovery period for leasehold improvements; again, an incentive to come and to rebuild.

There is nothing we can do to ever turn back the clock to September 10, but what the Congress can do, in addition to the ongoing appropriations, which I believe is going to be a multiyear process, and I credit the President for fulfilling his commitment, this is another vehicle to help New York rebuild and to provide incentives.

Over and above this proposal, I think it is important to understand that the surest way to help New York and perhaps the best way to help New York is to implement significant tax relief for folks who are working in Manhattan and the other boroughs. That is the surest and, as I see it, is the long-term positive effect on rebuilding.

I want to thank the gentleman from California (Mr. THOMAS) for being so diligent, and the gentleman from New York (Mr. RANGEL) for bringing this forward. This is going to help New York and help New York City, and it is going to help the people that I represent in Staten Island and Brooklyn, many of whom worked in downtown Manhattan.

Again, it is just another boost, I think, from the Congress and from Washington that we are going to stand shoulder-to-shoulder with the people from New York.

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

Mr. Speaker, I include for the RECORD, since there is no committee report, the Joint Committee on Taxation's technical explanation of the bill.

The material referred to is as follows:

TECHNICAL EXPLANATION OF H.R. 2884, THE ''VICTIMS OF TERRORISM TAX RELIEF ACT OF 2001,'' AS CONSIDERED BY THE HOUSE ON DECEMBER 13, 2001

(Prepared by the staff of the Joint Committee on Taxation)

INTRODUCTION

This document, prepared by the staff of the Joint committee on Taxation, contains a technical explanation of H.R. 2884, the ''Victims of Terrorism Tax Relief Act of 2001,'' as Considered by the House on December 13, 2002.

I. BACKGROUND

Historically, the Congress has provided Federal tax relief for members of the U.S. Armed Forces who serve in combat zones. In addition, the Congress has taken action on several occasions to provide Federal tax relief for service members and other individuals whose lives have been affected by particular instances of hostile action involving the United States. In 1970, the Congress enacted legislation that provided tax relief to individuals who had been removed from a U.S. vessel and dies while being illegally detained by the Democratic People's Republic of Korea during 1968. Specifically, the legislation treated these individuals as having served in a combat zone for purposes of tax provisions that apply only to individuals serving in designated combat zones. Thus, service personnel who were crewmembers of the U.S.S. *Pueblo* (which was illegally detained in 1968 by North Korea), and who died during the detention, were eligible for the income tax exclusion (and other special tax rules) available for service personnel who die in combat zones.

In 1980, the Congress enacted legislation concerning the American hostages who were held captive in Iran between November 4, 1979, and December 31, 1981, and who died as a result of injury or disease or physical or mental disability that was incurred or aggravated while in captive status. The legislation provided that no Federal income tax would be imposed with respect to the year in which the individual died or any prior year ending on or after the first day the individual was in captive status. This legislation applied to military and civilian personnel of the United States, as well as to certain other U.S. taxpayers taken captive outside Iran on or before December 31, 1981. Moreover, if there had been any unpaid income tax liability of

such an individual from years prior to captivity, the liability was forgiven. This total income tax exemption for American hostages who died as a result of captive status was available only if death occurred within two years after the individual ceased to be in captive status.

In 1984, the Congress enacted legislation after hostile action occurred in Lebanon and Grenada involving U.S. military and civilian personnel. This legislation provided special Federal income tax rules for certain individuals who die while in active service as a member of the Armed Forces of the United States or while in the civilian employment of the United States. Under the legislation, if death occurs as a result of wounds or injuries incurred outside the United States in a terrorist or military action, then no Federal income tax applies with respect to income of the individual for the year of death or for any earlier year in the period beginning with the last year ending before the year in which the wounds or injuries were incurred (sec. 692(c)). The legislation only applies to injuries or wounds that are incurred in a terrorist or military action. Thus, for example, the legislation would not have applied with respect to a U.S. serviceperson stationed in Lebanon who died as a result of an accidental fall because, if not caused by hostile forces, such an injury was not incurred in a terrorist or military action. In order to apply the special tax rules provided by the legislation to other hostile actions that occurred before the date of enactment (such as the attempt to rescue the American hostages in Iran), the legislation was made effective with respect to all taxable years of individuals dying as a result of wounds or injuries incurred after December 31, 1979.

The 1984 legislation applies to the year preceding the year in which the wounds or injuries were incurred because the Congress determined that forgiveness of income tax only for the period from the year of the injuries or wounds to the year of death would have inequitable results in certain circumstances. Under such a limitation, a soldier who is killed in a terrorist attack on a U.S. base in a foreign country on January 31 would be exempt from income tax only on one month's income, while a soldier who is killed in an attack on December 31 would be exempt from income tax on an entire year's income. Accordingly, the Congress concluded that it is more equitable to extend the tax forgiveness under the provision to income for the year preceding the year of injury.

In 1990, the Congress enacted legislation providing limited income tax benefits to victims of the terrorist attack that resulted in the downing of Pan American Airways Flight 103 over Lockerie, Scotland on December 21, 1988. The legislation provided that, in the case of any individual whose death was a direct result of the terrorist attack involving Flight 103, the income tax provisions of subtitle A of the Internal Revenue Code did not apply with respect to: (1) the taxable year that included December 21, 1988; and (2) the prior taxable year. However, the income tax benefit in each taxable year was limited to an amount equal to 28 percent of the annual rate of basic pay at Level V of the U.S. Executive Schedule as of December 21, 1988. This limitation was intended to limit the amount of tax relief to that which was provided to personnel of the United States who were on Flight 103, thus providing equal relief to all of the victims who were on Flight 103. In addition, the legislation required the President to submit recommendations to Congress concerning whether future legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to U.S. citizens who are victims of terrorism. The legislation also authorized the President to establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

In 1991, the Congress enacted legislation extending the benefits of the suspension of time provisions under section 7508 to any individual (and the spouse of such an individual) who performed certain services that preceded the designation of a combat zone with regard to Operation Desert Shield. The individuals eligible for such benefits included individuals who provided services in the Armed Forces of the United States (or in support of the Armed Services) if such services were performed in the area designated by the President as the ''Persian Gulf Desert Shield Area'' and such services were performed during the period beginning August 2, 1990, and ending on the date on which any portion of the area was designated by the President as a combat zone. After January 17, 1991 (the date on which the Persian Gulf Desert Shield Area became designated as a combat zone by the President), individuals performing such services became eligible for the benefits of the present-law tax provisions applicable to service in a designated combat zone. An Executive Order terminating the designation of the Persian Gulf Desert Shield Area as a combat zone has not been issued.

In 1996, the Congress enacted legislation concerning certain individuals serving in portions of former Yugoslavia (i.e., Bosnia and Herzegovina, Croatia, and Macedonai) as part of Operation Joint Endeavor and Operation Able Sentry. This legislation provided that such service is treated in the same manner as if it were performed in a designated combat zone for purposes of the tax provisions, applicable to service in a designated combat zone. The legislation also made the suspension of time provisions of section 7508 applicable to certain other individuals participating in Operation Joint Endeavor. In addition, the legislation increased the maximum officer combat pay exclusion from $500 per month to the highest rate of pay applicable to enlisted personnel plus the amount of hostile fire/imminent danger pay received by the officer.

In 1997, the Congress enacted legislation authorizing procedural tax benefits with regard to Presidentially declared disasters in general. The legislation provided that the Secretary of the Treasury may prescribe regulations under which a period of up to 90 days may be disregarded for performing various acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for any taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (sec. 7508A). In 2001, the Congress amended section 7508A to extend from 90 to 120 the authorized period of days that may be disregarded by the Secretary.

II. DESCRIPTION OF H.R. 2884, THE ''VICTIMS OF TERRORISM TAX RELIEF ACT OF 2001''

A. RELIEF PROVISIONS FOR VICTIMS OF SPECIFIC TERRORIST ATTACKS

1. Income taxes of victims of terrorist attacks (sec. 101 of the bill and sec. 692 of the Code)

Present Law

An individual in active service as a member of the Armed Forces who dies while serving in a combat zone (or as result of wounds, disease, or injury received while serving in a combat zone) is not subject to income tax or self-employment tax for the year of death (as well as for any prior taxable year ending on or after the first day the individual served in the combat zone) (sec. 6929a)(1)). Special computational rules apply in the case of joint returns. Military and civilian employees of the United States are entitled to a similar exemption if they die as a result of wounds or injury which was incurred outside the United States in terrorist or military action (sec. 692(c)).

The exemption applies not only to the tax liability of the individual attributable to income received before the date of death and reported on the decedent's final return. The exemption applies also to the liability of another person to the extent the liability is attributable to an amount received after the individual's death which would have been includible in the individual's income for the taxable year in which the date of death falls (determined as if the individual had survived). For example, the individual's final wage payment, or interest or dividends payable in the year of death with respect to the individual's assets, are exempt from income tax when paid to another person or the individual's estate after the date of death but before the end of the taxable year of the decedent (determined without regard to the death).

This exemption is available for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury were incurred. Thus, for example, if someone is injured and dies in the year the injury occurred, the exemption applies for the year of death and the prior taxable year. Similarly, if someone is injured and dies two years later, this exemption is available for the taxable year of death as well as the three prior taxable years (i.e., the year preceding the injury, the year of the injury, and the two years following the year of the injury).

Explanation of Provision

Application of relief to victims of September 11, 2001, April 19, 1995, and anthrax attacks. The bill extends relief similar to the present-law treatment of military or civilian employees of the United States who die as a result of terrorist or military activity outside the United States to individuals who die as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, and individuals who die as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Under the bill, such individuals generally are exempt from income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury occurred. The exemption applies to these individuals whether killed in an attack (e.g., in the case of the September 11, 2001, attack in one of the four airplanes or on the ground) or in rescue or recovery operations.

The provision does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

Simplified refund procedures. It is intended that the Secretary will establish procedures to simplify refunds of these amounts, including expanding the directions in Revenue Procedure 85–35 to include specific instructions for Form 1041.

Effective Date

The provision is effective for taxable years ending before, on, or after September 11, 2001.

A special rule extends the period of limitations to permit the filing of a claim for refund resulting from this provision until one year after the date of enactment, if that period would otherwise have expired before that date.

2. Exclusion of certain death benefits (sec. 102 of the bill and sec. 101 of the Code)

Present Law

In general, gross income includes income from whatever source derived (sec. 61), including payments made as a result of the death of an individual. Certain exceptions to this general rule of inclusion may apply to such payments in certain cases.

For example, gross income generally does not include the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injury (including death) or sickness (sec. 104(a)(2)). Further, gross income does not include amounts received (whether in a single sum or otherwise) under a life insurance contract if such amounts are paid by reason of the death of the insured (sec. 101(a)).

In addition, gifts are not includible in gross income (sec. 102). However, with very limited exceptions, payments made by an employer to, or for the benefit of, an employee are not excluded from gross income as gifts (sec. 102(c)). In business contexts in which section 102(c) does not apply, payments are excludable as gifts only if objective inquiry demonstrates that the payments were made out of ''detached and disinterested generosity'' and not in return for past or future services or from motives of anticipated benefit.

Explanation of Provision

The bill generally provides an exclusion from gross income for amounts received if such amounts are paid by an employer (whether in a single sum or otherwise) by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Subject to rules prescribed by the Secretary, the exclusion does not apply to amounts that would have been payable if the individual had died for a reason other than the attack. For example, the provision does not apply to payments by an employer under a nonqualified deferred compensation plan to the extent that the amounts would have been payable if the death had occurred for another reason.

For purposes of the exclusion, self-employed individuals are treated as employees. Thus, for example, payments by a partnership to the surviving spouse of a partner who died as a result of the September 11, 2001, attacks may be excludable under the provision.

The provision does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

No change to present law is intended as to the deductibility of death benefits paid by the employer or otherwise merely because the payments are excludable by the recipient. Thus, it is intended that payments excludable from income under the provision are deductible to the same extent they would be if they were includible in income.

The bill is not intended to narrow the scope of any applicable exclusion under present law. Accordingly, payments that are not specifically excludable under the bill remain excludable to the same extent provided under present law.

In connection with the September 11, 2001, terrorist attacks, insurance companies may pay death benefits under a life insurance contract even if the contract terms provide for an exclusion for death occurring as a result of an act of terrorism or act of war. It is understood that such a death payment would fall within the present-law exclusion (under sec. 101(a)) for payments made under the contract if it otherwise meets the requirements of the present-law exclusion.

Effective Date

The provision is effective for taxable years ending before, on, or after September 11, 2001.

A special rule extends the period of limitations to permit the filing of a claim for refund resulting from this provision until one year after the date of enactment, if that period would otherwise have expired before that date.

3. Estate tax reduction (sec. 103 of the bill and sec. 2201 of the Code)

Present Law

Present law provides a reduction in Federal estate tax for taxable estates of U.S. citizens or residents who are active members of the U.S. Armed Forces and who are killed in action while serving in a combat zone (sec. 2201). This provision also applies to active service members who die as a result of wound, disease, or injury suffered while serving in a combat zone by reason of a hazard to which the service member was subjected as an incident of such service.

In general, the effect of section 2201 is to replace the Federal estate tax that would otherwise be imposed with a Federal estate tax equal to 125 percent of the maximum State death tax credit determined under section 2011(b). Credits against the tax, including the unified credit of section 2010 and the State death tax credit of section 2011, then apply to reduce (or eliminate) the amount of the estate tax payable.

The reduction in Federal estate taxes under section 2201 is equal in amount to the ''additional estate tax'' with respect to the estates of decedents dying before January 1, 2005. The additional estate tax is the difference between the Federal estate tax imposed by section 2001 and 125 percent of the maximum State death tax credit determined under section 2011(b). With respect to the estates of decedents dying after December 31, 2004, section 2001 provides that the additional estate tax is the difference between the Federal estate tax imposed by section 2001 and 125 percent of the maximum state death tax credit determined under section 2011(b) as in effect prior to its repeal by the Economic Growth and Tax Relief Reconciliation Act of 2001.

Explanation of Provision

The bill generally treats individuals who die from wounds or injury incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002, in the same manner as if they were active members of the U.S. Armed Forces killed in action while serving in a combat zone or dying as a result of wounds or injury suffered while serving in a combat zone for purposes of section 2201. Consequently, the estates of these individuals are eligible for the reduction in Federal estate tax provided by section 2201. The provision applies regardless of whether the individual was killed in the attack itself (e.g., in the case of the September 11, 2001, attack, in one of the four airplanes or on the ground) or in rescue or recovery operations. The provision does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative or such individual.

The bill also changes the general operation of section 2201, as it applies to both the estates of service members who qualify for special estate tax treatment under present law and to the estates of individuals who qualify for the special treatment under the bill. Under the bill, the Federal estate tax is determined in the same manner for all estates that are eligible for Federal estate tax reduction under section 2201. In addition, the executor of an estate that is eligible for special estate tax treatment under section 2201 may elect not to have section 2201 apply to the estate. Thus, in the event that an estate may receive more favorable treatment without the application of section 2201 in the year of death than it would under section 2201, the executor may elect not to apply the provisions of section 2201, and the estate tax owed (if any) would be determined pursuant to the generally applicable rules.

Under the bill, section 2201 no longer reduces Federal estate tax by the amount of the additional estate tax. Instead, the bill provides that the Federal estate tax liability of eligible estates is determined under section 2001, using a rate schedule that is equal to 125 percent of the present-law maximum State death tax credit amount. This rate schedule is used to compute the tax under section 2001(b) (i.e., both the tentative tax under section 2001(b)(1) and the hypothetical gift tax under section 2201(b)(2) is computed using this rate schedule). As a result of this provision, the estate tax is unified with the gift tax for purposes of section 2201 so that a single graduated (but reduced) rate schedule applies to transfers made by the individual at death, based upon the cumulative taxable transfers made both during lifetime and at death.

In addition, while the bill provides an alternative reduced rate table for purposes of determining the tax under section 2201(b), the amount of the unified credit nevertheless is determined as if section 2201 did not apply, based upon the unified credit as in effect on the date of death. For example, in the case of victims of the September 11, 2001, terrorist attack, the applicable unified credit amount under section 2010(c) would be determined by reference to the actual section 2001(c) rate table.

As a conforming amendment, the bill repeals section 2011(d) because it no longer will have any application to taxpayers.

Effective Date

The provision applies to estates of decedents dying on or after September 11, 2001, or, in the case of victims of the Oklahoma City terrorist attack, estates of decedents dying on or after April 19, 1995.

A special rule extends the period of limitations to permit the filing of a claim for refund resulting from this provision until one year after the date of enactment, if that period would otherwise have expired before that date.

4. Payments by charitable organizations treated as exempt payments (sec. 104 of the bill and secs. 501 and 4941 of the Code)

Present Law

In general, organizations described in section 501(c)(3) of the Code are exempt from taxation. Contributions to such organizations generally are tax deductible (sec. 170). Section 501(c)(3) organizations must be organized and operated exclusively for exempt purposes and no part of the net earnings of such organizations may inure to the benefit of any private shareholder or individual. An organization is not organized or operated exclusively for one or more exempt purposes unless the organization serves a public rather than a private interest. Thus, an organization described in section 501(c)(3) generally must serve a charitable class of persons that is indefinite or of sufficient size.

Tax-exempt private foundations are a type of organization described in section 501(c)(3)

and are subject to special rules. Private foundations are subject to excise taxes on acts of self-dealing between the private foundation and a disqualified person with respect to the foundation (sec. 4941). For example, it is self-dealing if the income or assets of a private foundation are transferred to, or used by or for the benefit of a disqualified person, such as a substantial contributor to the foundation or a person in control of the foundation, and the benefit is not incidental or tenuous.

Explanation of Provision

In light of the extraordinary distress caused by the attacks on the United States of September 11, 2001, and the subsequent attacks involving anthrax, the bill provides that organizations described in section 501(c)(3) that make payments by reason of the death, injury, wounding, or illness of an individual incurred as a result of the September 11, 2001, attacks, or as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, are not required to make a specific assessment of need for the payments to be related to the purpose of function constituting the basis for the organization's exemption. This rule applies provided that the organization makes the payments in good faith using a reasonable and objective formula which is consistently applied and the payments further a public rather than a private interest. Therefore, as under present law, payments must serve a charitable class. For example, under this standard, a charitable organization that assists families of firefighters killed in the line of duty could make a pro-rata distribution to the families of firefighters killed in the attacks, even though the specific financial needs of each family are not directly considered. Similarly, if the amount of a distribution is based on the number of dependents of a charitable class of persons killed in the attacks and this standard is applied consistently among distributions, the specific needs of each recipient do not have to be taken into account. However, it would not be appropriate for a charity to make pro-rata payments based on the recipients' living expenses before September 11 if the result generally is to provide significantly greater assistance to person in a better position to provide for themselves than to persons with fewer financial resources. Although such a distribution might be based on objective criteria, it would not, under the statutory standard, be a reasonable formula for distributing assistance in an equitable manner. Similarly, although specific assessments of need are not required, payments that do not further public purposes are not permitted. The bill does not change the substantive standards for exemption under section 501(c)(3), including the prohibition on private inurement. It is impossible to list or anticipate the kinds of payments that meet the statutory test, but, in general, charitable that make distributions in good faith using a reasonable and objective formula will be treated as acting consistently with exempt purposes. A charity that makes payments subject to this provision should indicate clearly on the charity's information return, for example by notation at the top of the relevant page of the return, that the charity relied on this provision in making distributions. The bill also provides that if a private foundation makes payments under the conditions described above, the payment is not treated as made to a disqualified person for purposes of section 4941.

For charities making payments in connection with the September 11 attacks or attacks involving anthrax, but not in reliance on this provision, present law rules apply. It is expected that, because of the severity of distress arising out of the September 11 and anthrax attacks and the extensive variety of needs that the thousands of victims and their family members may have, a wide array of expenses will be consistent with operation for exclusively charitable purposes. For instance, payments to permit a surviving spouse with young children to remain at home with the children rather than being forced to enter the workplace seem to be appropriate to maintain the psychological well-being of the entire family. Similarly, assistance with elementary and secondary school tuition to permit a child to remain in the same educational environment seems to be appropriate, as does assistance needed for higher education. Assistance with rent or mortgage payments for the family's principal resident or car loans also seems to be appropriate to forestall losses of a home or transportation that would cause additional trauma to families already suffering. Other types of assistance that the scope of the tragedy makes it difficult to anticipate may also serve a charitable purpose.

Effective Date

The provision applies to payments made on or after September 11, 2001.

B. GENERAL RELIEF FOR VICTIMS OF DISASTERS AND TERRORISTIC OR MILITARY ACTIONS

1. Exclusion of disaster relief payments (sec. 201 of the bill and new sec. 139 of the Code)

Present Law

Taxation of disaster relief payments. Gross income includes all income from whatever source derived unless a specific exception applies (sec. 61). There is no specific statutory exclusion from income for disaster payments. However, various types of disaster payments made to individuals have been excluded from gross income under a general welfare exception. The exception has been held to exclude from income payments made under legislatively provided social benefit programs for the promotion of the general welfare. The general welfare exception generally applies if the payments (1) are made from a governmental general welfare fund, (2) are for the promotion of the general welfare (on the basis of need and not to all residents), and (3) are made without respect to services rendered by the recipient. The exclusion generally applies to payments for food, medical, housing, personal property, transportation, and funeral expenses.

The general welfare exception generally does not apply to payments in the nature of income replacement, such as payments to individuals for lost wages or unemployment compensation or payments in the nature of income replacement to businesses. Income replacement payments are includable in gross income, unless another exception applies.

Disaster relief payments may be excludable under other provisions. For example, payments made by charitable relief organizations may be excluded from the gross income of the recipients as gifts. Payments made in a business context generally are not treated as gifts. Factual issues may arise as to whether a payment in the context of a business relationship is a gift or taxable compensation for services. In general, payments made by an employer to, or for the benefit of, an employee are not excluded from gross income as gifts (sec. 102(c)).

Under present law, gross income generally does not include payments received as damages (other than punitive damages) on account of personal physical injury (including death) or sickness (sec. 104(a)(2)). Such payments are excluded from gross income regardless of whether received by suit or agreement and whether received as a lump sum or as periodic payments.

Section 406 of the Air Transportation Safety and System Stabilization Act provides for the payment of compensation for eligible individuals who suffered physical harm or death as a result of the terrorist-related aircraft crashes of September 11, 2001. There is no statutory provision specifically addressing the taxation of such compensation; however, such compensation may be excludable from income under generally applicable Code provisions (e.g., section 104).

Rules relating to charitable organizations. In general, organizations described in section 501(c)(3) of the Code are exempt from taxation. Contributions to such organizations generally are tax deductible (sec. 170). Section 501(c)(3) organizations must be organized and operated exclusively for exempt purposes and no part of the net earnings of such organizations may inure to the benefit of any private shareholder or individual. An organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, an organization described in section 501(c)(3) generally must serve a charitable class of persons that is indefinite or of sufficient size.

Tax-exempt private foundations are a type of organization described in section 501(c)(3) and are subject to special rules. Private foundations are subject to excise taxes on acts of self-dealing between the private foundation and a disqualified person with respect to the foundation (sec. 4941). For example, it is self-dealing if the income or assets of a private foundation are transferred to, or used by or for the benefit of a disqualified person, such as a substantial contributor to the foundation or a person in control of the foundation, and the benefit is not incidental or tenuous. Private foundations also are subject to excise taxes on taxable expenditures (sec. 4945). For example, it is a taxable expenditure if a private foundation pays an amount that does not further certain charitable purposes, or makes a grant to an individual for educational or other similar purposes without following certain procedures.

Explanation of Provision

Taxation of disaster relief payments. The bill clarifies that any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act is excludable from gross income. In addition, the bill provides a specific exclusion from income for qualified disaster relief payments. No inference is intended as to the taxability of such payments under present law. In addition, the provision is not intended to preclude the exclusion of other types of payments under the general welfare exception or other Code provisions.

Qualified disaster relief payments include payments, from any source, to, or for the benefit of, an individual to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster. Personal, family, and living expenses are intended to have the same meaning as when used in section 262.

Qualified disaster relief payments also include payments, from any source, to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence, or for the repair or replacement of its contents, to the extent that the need for the repair, rehabilitation, or replacement is attributable to a qualified disaster. For purposes of determining the tax basis of a rehabilitated residence, it is intended that qualified disaster relief payments be treated in the same manner as amounts received on an involuntary conversion of a principal residence under section

121(d)(5) and sections 1033(b) and (h). A residence is not precluded from being a personal residence solely because the taxpayer does not own the residence; a rented residence can qualify as a personal residence.

Qualified disaster relief payments also include payments by a person engaged in the furnishing or sale of transportation as a common carrier on account of death or personal physical injuries incurred as a result of a qualified disaster. Thus, for example, payments made by commercial airlines to families of passengers killed as a result of a qualified disaster would be excluded from gross income.

Qualified disaster relief payments also include amounts paid by a Federal, State or local government in connection with a qualified disaster in order to promote the general welfare. As under the present law general welfare exception, the exclusion does not apply to payments in the nature of income replacement, such as payments to individuals of lost wages, unemployment compensation, or payments in the nature of business income replacement.

Qualified disaster relief payments do not include payments for any expenses compensated for by insurance or otherwise. No change from present law in intended as to the deductibility of qualified disaster relief payments, made by an employer or otherwise, merely because the payments are excludable by the recipients. In addition, in light of the extraordinary circumstances surrounding a qualified disaster, it is anticipated that individuals will not be required to account for actual expenses in order to qualify for the exclusion, provided that the amount of the payments can be reasonably expected to be commensurate with the expenses incurred.

Particular payments may come within more than one category of qualified disaster relief payments; the categories are not intended to be mutually exclusive. Qualified disaster relief payments also are excludable for purposes of self-employment taxes and employment taxes. Thus, no withholding applies to qualified disaster relief payments.

Under the bill, a qualified disaster includes a disaster which results from a terroristic or military action (as defined in section 692(c)(2), as amended by the bill), a Presidentially declared disaster, a disaster which results from an accident involving a common carrier or from any other event which would be determined by the Secretary to be of a catastrophic nature, or, for purposes of payments made by a Federal, State or local government, a disaster designated by Federal, State or local authorities to warrant assistance.

The exclusion from income under section 139 does not apply to any individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or any other terrorist attack, or to a representative of such individual.

Rules applicable to charitable organizations making disaster relief payments. Recognizing that employers and employees may also contribute to section 501(c)(3) organizations that make disaster relief payments, clarification of the type of disaster relief grants such organizations may make consistent with exempt purposes to assist individuals in distress as a result of the September 11 attacks, and more generally, may be helpful. Because the bill provides a special rule for certain payments made by reason of death, injury, wounding, or illness of an individual as a result of the September 11 attacks, and certain attacks involving anthrax, the following discussion relates to disaster relief generally.

Generally speaking a charitable organization must serve a public rather than a private interest. Providing assistance to relieve distress for individuals suffering the effects of a disaster generally serves a public rather than a private interest if the assistance benefits the community as a whole, or if the recipients otherwise lack the resources to meet their physical, mental and emotional needs. Such assistance could include cash grants to provide for food, clothing, housing, medical care, federal costs, transportation, education and other needs. All such grants must be need-based, taking into account the family's financial resources and their physical, mental and emotional well-being.

Charitable organizations generally are in the best position to determine the type and amount of, and appropriate beneficiaries for, disaster relief. Accordingly, it is expected that the Secretary will presume that a charity providing cash assistance in good faith to victims (and their family members) of a qualified disaster is acting consistent with the requirements of section 501(c)(3) if the class of beneficiaries is sufficiently large or indefinite and the charity can demonstrate that it is applying consistent, objective criteria for assessing need.

In addition to the rules described above that are applicable to all charities, special rules apply with respect to disaster relief provided by private foundations controlled by an employer. In such cases, clarification of the appropriate treatment of the foundation and the payments may be helpful. In general, a private foundation that is established and controlled by an employer violates the requirements of section 501(c)(3) if it provides benefits to a class of beneficiaries composed exclusively of the employer's employees, and such benefits are a form of compensation. The IRS recently held in a private letter ruling, and in similar rulings, that a private foundation that is established, funded and controlled by a particular employer for the purpose of providing disaster relief for employees of a particular employer does not qualify as a charitable organization under section 501(c)(3), because the foundation is not operated solely for charitable purposes and is providing a benefit on behalf of the employer in violation of the prohibition on private inurement. Although private letter rulings do not constitute precedent for other taxpayers, considerable uncertainty exists regarding IRS' position relating to employer-controlled private foundations making disaster relief payments to employee-beneficiaries.

If payments in connection with a qualified disaster are made by a private foundation to employees (and their family members) of an employer that controls the foundation, the presumption that the charity acts consistently with the requirements of section 501(c)(3) applies if the class of beneficiaries is large or indefinite and if recipients are selected based on an objective determination of need by an independent committee of the private foundation, a majority of the members of which are persons other than persons who are in a position to exercise substantial influence over the affairs of the controlling employer (determined under principles similar to those in effect under section 4958). The presumption does not apply to grants made to, or for the benefit of, a disqualified person or member of the selection committee. However, the absence of an independent selection committee does not necessarily mean that a foundation violates the requirements of section 501(c)(3). Other procedures and standards may be adequate substitutes to ensure that any benefit to the employer is incidental and tenuous. Similarly, providing need-based payments to employees and their survivors in response to a disaster other than a qualified disaster may well further charitable purposes consistent with the requirements of section 501(c)(3).

It is intended that an employer-controlled private foundation is not providing an inappropriate benefit and is not disqualified from exemption under section 501(c)(3) if it makes a payment to an employee or a family member of an employee (who is employed by an employer who controls the foundation) relieves distress caused by a qualified disaster as defined under section 139, provided that it awards grants based on an objective determination of need using either an independent selection committee or adequate substitute procedures, as described above. It is further intended that section 102(c) of the Code, which provides that a transfer from an employer to, or for the benefit of, an employee generally is not excludable from income as a gift, does not apply to such payments. It is further expected that the Service will reconsider the ruling position it has taken to ensure that private foundations established and controlled by employers will have appropriate guidance, consistent with the principles outlined above, on the circumstances under which they may provide disaster assistance in connection with a qualified disaster specifically to the employers' employees.

It is intended that the making by a private foundation of disaster relief payments that qualify for the presumption stated above (1) will not be treated as an act of self-dealing under section 4941 merely because the recipient is an employee (or family member of an employee) of a disqualified person with respect to the foundation, (2) will be treated as in furtherance of section 170(c)(2)(B) purposes, and (3) will be considered to meet the requirements of section 4945(g) to the extent that they apply. Moreover, contributions to a section 501(c)(3) organization administering relief in a manner outlined above (including those made by employers and any of their employees) are deductible under the generally applicable rules of section 170. Finally, it is confirmed that need-based payments made by an employer-controlled foundation to an individual for exclusive charitable purposes generally are excludable from the recipients' income as gifts. Thus, such payments made by a foundation to relieve distress caused by a qualified disaster are excludable from the recipients' income regardless of whether they fall within the scope of section 139, or any other such provision of the Code providing for an exclusion. The IRS is directed to issue prompt guidance to taxpayers relating to the requirements applicable to private foundations making disaster assistance payments. The principles discussed above should apply to foundations and public charities providing relief in response to both the September 11, 2001, disaster and future qualified disasters.

Effective Date

The provision applies to taxable years ending on or after September 11, 2001.

2. Authority to postpone certain deadlines and required actions (sec. 202 of the bill, sec. 7508A of the Code, and new sec. 518 and sec. 4002 of the Employee Retirement Income Security Act of 1974)

Present Law

In general. In general, the Secretary of the Treasury may prescribe regulations under which a period of up to 120 days may be disregarded for performing various acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for any taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (sec. 7508A).

The suspension of time may apply to the following acts: (1) Filing any return of income, estate, or gift tax (except employment

and withholding taxes); (2) payment of any income, estate, or gift tax (except employment and withholding taxes); (3) filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court; (4) allowance of a credit or refund of any tax; (5) filing a claim for credit or refund of any tax; (6) bringing suit upon any such claim for credit or refund; (7) assessment of any tax; (8) giving or making any notice or demand for the payment of any tax; or with respect to any liability to the United States in respect of any tax; (9) collection of the amount of any liability in respect of any tax; (10) bringing suit by the United States in respect of any liability in respect of any tax; and (11) any other act required or permitted under the internal revenue laws specified in regulations prescribed by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension.

On September 13, 2001, the IRS issued Notice 2001–61 providing relief to taxpayers affected by the September 11, 2001, terrorist attack. Prior to issuance of this notice, the President had declared certain affected areas to be disaster areas. In addition, on September 14, 2001, the IRS issued Notice 2001–63 providing additional tax relief to taxpayers who found it difficult to meet their tax filing and payment obligations.

Employee benefit plans. Questions have arisen about the scope of section 7508A in relation to employee benefit plans. Some acts related to employee benefit plans are not clearly covered by the suspension. For example, a plan sponsor or plan administrator may be required to provide a notice to plan participants or to make a plan contribution, or a plan participant may be required to make a benefit election or take a distribution under the plan. In addition, some acts related to employee benefit plans may be required or provided for under the Employee Retirement Income Security Act (''ERISA'') or under the terms of the plan, rather than under the Internal Revenue Code. For example, on September 14, 2001, the Department of Labor issued News Release No. 01–36, announcing that the Pension and Welfare Benefits Administration, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation were extending the deadline for filing Form 5500 and Form 5500–EZ.

Explanation of Provision

In general. The bill redrafts section 7508A to expand its scope and to clarify its application. Specifically, the bill permits the Secretary to suspend the period of time under this provision for up to one year (increased from up to 120 days). The bill also clarifies that interest on underpayments may be waived or abated pursuant to section 7508A with respect to either a declared disaster or a terroristic or military action. The bill clarifies that the Secretary of the Treasury has the authority to postpone actions pursuant to section 7508A in response to a terroristic or military action, regardless of whether a disaster area has been declared by the President in connection with the action. The bill facilitates the prompt issuance of guidance by the Secretary of the Treasury with respect to section 7508A by removing the requirement that regulations be published listing the scope of additional actions that may be postponed pursuant to section 7508(a)(1)(K); accordingly, the Secretary may provide authoritative guidance via a notice or other mechanism of the Secretary's choice that may be issued more rapidly. It is intended that the Secretary construe this authority as broadly as is necessary and appropriate to respond to specific disasters or terroristic or military actions. The authority to postpone ''any ... act'' is sufficiently broad to encompass, for example, specific deadlines enumerated in the Code, such as those in section 1031 (relating to the exchange of property held for productive use or investment). Similarly, it is intended that the Secretary utilize this authority to address issues that arise from the discovery of tax information subsequent to the filing of a tax return that would affect the tax liability reported on that return.

Employee benefit plans. The bill expands and clarifies the scope of the deadlines and required actions that may be postponed pursuant to section 7508A. The bill provides that the Secretary of the Treasury may prescribe a period of up to one year which may be disregarded in determining the date by which any action by a pension or other employee benefit plan, or by a plan sponsor, administrator, participant, beneficiary or other person would be required or permitted to be completed. The bill provides similar authority to the Secretary of Labor and the Pension Benefit Guaranty Corporation with respect to actions within their respective jurisdictions.

The bill is not limited to actions under the Internal Revenue Code. Accordingly, actions under ERISA or under the terms of the plan come within the scope of this provision. Acts performed within the extended period are considered timely under the Internal Revenue Code, ERISA, and the plan. In addition, a plan is not treated as operating in a manner inconsistent with its terms or in violation of its terms merely because acts provided for under the plan are performed during the extended period.

Examples of acts covered by the provision include (1) the filing of a form with the IRS, Department of Labor or the pension Benefit Guaranty Corporation, (2) an employer's contribution to the plan of required quarterly amounts for the current year or the prior year minimum funding amounts, (3) the filing of an application for a waiver of the minimum funding standard, (4) the payment of premiums to the Pension Benefit Guarantee Corporation, (5) a participant's election of a form of benefits under a plan, (6) the plan administrator's distribution of benefits in accordance with a participant's election, (7) notice to an employee of eligibility for continuation coverage under a group health plan, and (8) an employee's election of continuation coverage.

Effective Date

The provision applies to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation on or after the date of the enactment.

3. Application of certain provisions to terroristic or military actions (sec. 203 of the bill and secs. 104 and 692 of the Code)

Present Law

Taxation of disability income of U.S. employees related to terrorist activity outside the United States. Gross income does not include amounts received by an individual as disability income attributable to injuries incurred as a direct result of a terrorist attack (as determined by the Secretary of State) which occurred while the individual was performing official duties as an employee of the United States outside the United States (sec. 104(a)(5)).

Income tax relief for military and civilian U.S. employees who die as a result of terrorist activity outside the United States. Military and civilian employees of the United States who die as a result of wounds or injury incurred outside the United States in a terroristic or military action are not subject to income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury were incurred. Accordingly, if such an individual is injured and dies in the same taxable year, this exemption from income tax is available for the taxable year of death as well as the prior taxable year.

Explanation of Provision

Taxation of disability income related to terrorist activity. The bill expands the present-law exclusion from gross income for disability income of U.S. civilian employees attributable to a terrorist attack outside the United States to apply to disability income received by any individual attributable to a terroristic or military action. The bill is not intended to apply to amounts that would have been payable even if the individual had not become disabled as a result of a terrorist or military action.

Income tax relief for individuals who die as a result of terrorist activity. The bill extends the income tax relief provided under present law to U.S. military and civilian personnel who die as a result of terroristic activity or military action outside the United States to such personnel regardless of where the terroristic activity or military action occurred.

Effective Date

The provision is effective for taxable years ending on or after September 11, 2001.

4. Clarification of due date for airline excise tax deposits (sec. 204 of the bill and sec. 301 of the Air Transportation Safety And Stabilization Act)

Present Law

Section 301 of the Air Transportation Safety and System Stabilization Act provides a special rule for the deposit of certain taxes. If a deposit of these taxes was required to be made after September 10, 2001, and before November 15, 2001, they are treated as timely made if deposited by November 15, 2001. The Secretary of the Treasury is given the authority to extend this deadline further, but no later than January 15, 2002. For eligible air carriers, the special deposit rules are applicable to the excise taxes imposed on air travel. The special deposit rules were also applied inadvertently to the deposit of the following employment taxes: both the employer and employee portions of FICA, railroad retirement taxes, and income taxes withheld by employers from employees.

Explanation of Provision

The applicability of these special deposit rules to employment taxes is repealed. The applicability of these special deposit rules to excise taxes is unaffected. It is intended that no penalties be imposed with respect to taxes that were not deposited timely in reliance on the provisions of the Air Transportation Safety and System Stabilization Act prior to the enactment of this provision.

Effective Date

The provision is effective as if included in section 301 of the Air Transportation Safety and System Stabilization Act.

5. Treatment of purchase of structured settlements (sec. 205 of the bill and new sec. 5891 of the Code)

Present Law

Present law provides tax-favored treatment for structured settlement arrangements for the payment of damages on account of personal injury or sickness.

Under present law, an exclusion from gross income is provided for amounts received for agreeing to a qualified assignment to the extent that the amount received does not exceed the aggregate cost of any qualified

funding asset (sec. 130). A qualified assignment means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of a personal injury or sickness (in a case involving physical injury or physical sickness), provided the liability is assumed from a person who is a party to the suit or agreement, and the terms of the assignment satisfy certain requirements. Generally, these requirements are that (1) the periodic payments are fixed as to amount and time; (2) the payments cannot be accelerated, deferred, increased, or decreased by the recipient; (3) the assignee's obligation is no greater than that of the assignor; and (4) the payments are excludable by the recipient under section 104(a)(1) or (2) as workmen's compensation for personal injuries or sickness, or as damages on account of personal physical injuries or physical sickness.

A qualified funding asset means an annuity contract issued by an insurance company licensed in the U.S., or any obligation of the United States, provided the annuity contract or obligation meets statutory requirements. Ann annuity that is a qualified funding asset is not subject to the rule requiring current inclusion of the income on the contract which generally applies to annuity contract holders that are not natural persons (e.g., corporations) (sec. 72(u)(3)(C)). In addition, when the payments on the annuity are received by the structured settlement company and included in income, the company generally may deduct the corresponding payments to the injured person, who, in turn, excludes the payments from his or her income (sec. 104). Thus, neither the amount received for agreeing to the qualified assignment of the liability to pay damages, nor the income on the annuity that funds the liability to pay damages, generally is subject to tax.

The exclusion for recipients of the periodic payments received under a structured settlement arrangement as damages for personal physical injuries or physical sickness can be contrasted with the treatment of investment earnings that are not paid as damages. If a recipient of damages chooses to receive a lump sum payment (excludable from income under sec. 104), and then to invest it himself, generally the earnings on the investment are includable in income. For example, if he recipient uses the lump sum to purchase an annuity contract providing for periodic payments, then a portion of each payment under the annuity contract is includable in income, and the balance is excludable under present-law rules based on the ratio of the individual's investment in the contract to the expected return on the contract (sec. 72(b)).

Present law provides that the payments to the injured person under the qualified assignment cannot be accelerated, deferred, increased, or decreased by the recipient (sec. 130). Consistent with these requirements, it is understood that contracts under structured settlement arrangements generally contain anti-assignment clauses. It is understood, however, that injured persons may nonetheless be willing to accept discounted lump sum payments from certain ''factoring'' companies in exchange for their payment streams. The tax effect on the parties of these transactions may not be completely clear under present law.

Explanation of Provision

The bill generally imposes an excise tax on any person who acquires certain payment rights under a structured settlement arrangement from a structured settlement recipient for consideration. The amount of the excise tax is 40 percent of the excess of (1) the undiscounted amount of the payments being acquired, over (2) the total amount actually paid to acquire them.

The 40-percent excise tax does not apply, however, if the transfer is approved in advance in a final order, judgment or decree that: (1) finds that the transfer does not contravene any Federal or State statute or the order of any court or responsible administrative authority; (2) finds that the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents; and (3) is issued under an applicable State statute by a court or is issued by the responsible administrative authority. Rules are provided for determining the applicable State statute.

The provision also provides that the acquisition transaction does not affect the application of certain present-law rules, if those rules were satisfied at the time the structured settlement was entered into. The rules are section 130 (relating to an exclusion from gross income for personal injury liability assignments), section 72 (relating to annuities), sections 104(a)(1) and (2) (relating to an exclusion for amounts received under workers' compensation acts and for damages on account of personal physical injuries or physical sickness), and section 461(h) (relating to the time of economic performance in determining the taxable year of a deduction).

Effective Date

The provision generally is effective for acquisition transactions entered into on or after 30 days following enactment. A transition rule applies during the period from that date to July 1, 2002. Under the transition rule, if no applicable State law (relating to the best interest of the payee) applies to a transfer during that period, then the exception from the 40 percent excise tax is available without the otherwise required court (or administrative) order, provided certain disclosure requirements are met. Under the transition rule, the person acquiring the structured settlement payments is required to disclose in advance to the payee: (1) the amounts and due dates of the payments to be transferred; (2) the aggregate amount to be transferred; (3) the consideration to be received by the payee; (4) the discounted present value of the transferred payments; and (5) the expenses to be paid by the payee or deducted from the payees's proceeds.

The provision providing that the acquisition transaction does not affect the application of certain present-law rules is effective for transactions entered into on or after the 30th day following enactment.

6. Personal exemption deduction for certain disability trusts (sec. 206 of the bill and sec. 642 of the Code)

Present Law

Present law provides a $300 personal exemption for trusts that are required by their governing instruments to currently distribute all of their income. For other trusts, present law provides a $100 personal exemption. These deductions are in lieu of the personal exemption that generally is provided under section 151 for individuals (sec. 642(b)).

Under present law, a grantor who transfers property to a trust while retaining certain powers or interests over the trust is treated as the owner of the trust for income tax purposes under the so-called ''grantor trust rules'' (secs. 671–677). Similarly, a third party who is not adverse to the grantor is treated as the owner of the trust under these rules to the extent that the third party is granted certain powers over the trust. If a grantor or third party is treated as the owner of a trust (a ''grantor trust''), the income and deductions of the trust are included directly in the taxable income of the grantor or third party. Because the personal exemption under section 642(b) applies to income that is taxable to a trust (rather than a grantor or third party), the personal exemption under section 642(b) does not apply to grantor trusts.

Explanation of Provision

The bill provides that certain disability trusts may claim a personal exemption in an amount that is based upon the personal exemption provided for individuals under section 151(d), rather than the $300 or $100 personal exemption provided under present law. The provision applies to disability trusts described in certain subsections of 42 U.S.C. sec. 1396p (relating to liens, adjustments, transfers of assets, and the treatment of trust amounts for purposes of determining eligibility for benefits under Medicaid State plans).

The provision only applies to disability trusts the beneficiaries of which are disabled (other than holders of a remainder or reversionary interest in the trust), within the meaning of 42 U.S.C. sec. 1382c(a)(3) (relating to the definition of a ''disabled individual'' for purposes of determining eligibility for Supplemental Security Income), and only if such beneficiaries are receiving government disability benefits based upon a determination of disability under 42 U.S.C. sec. 1382c(a)(3).

The provision applies if all of the beneficiaries of the trust at the end of the taxable year are determined under 42 U.S.C. sec. 1382c(a)(3) to be disabled for some portion of such year. Thus, a disability trust may claim the personal exemption under the provision even if one or more of the beneficiaries becomes no longer disabled during the taxable year. However, the trust may claim the personal exemption for the following taxable year only if such individual or individuals are no longer beneficiaries of the trust at the end of the following taxable year (i.e., all remaining beneficiaries of the trust at the end of the following taxable year are disabled or were disabled during some portion of such year). In the case of a disability trust with a single beneficiary, the trust may claim the personal exemption under the provision for the taxable year during which the beneficiary becomes no longer disabled, but not for subsequent taxable years.

The personal exemption provided for disability trusts under the provision is equal in amount to the section 151(d) personal exemption for unmarried individuals with no dependents and is subject to a phaseout, which is determined by reference to the phaseout of the personal exemption for such individuals under sec. 151(d)(3)(C)(iii). For purposes of computing the phaseout of the personal exemption under the provision, the adjusted gross income of the trust is determined by reference to section 67(e) (relating to the determination of adjusted gross income of estates and trusts for purposes of computing the 2-percent floor on miscellaneous itemized deductions).

The provision does not affect the determination of whether a disability trust is treated as a grantor trust under the present-law grantor trust rules, and does not change the inapplicability of the personal exemption under section 642(b) to grantor trusts. Thus, the provision does not apply to disability trusts that are treated as grantor trusts.

Effective Date

The provision applies to taxable years of disability trusts ending on or after September 11, 2001.

C. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001

1. Special depreciation allowance for certain property (sec. 301(a) of the bill and new sec. 1400L of the Code)

Present Law

Depreciation deductions. A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system (''MACRS''). Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 25 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized. In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $24,000 (for taxable years beginning in 2001 or 2002) of the cost of qualifying property placed in service for the taxable year (sec. 179). For taxable years beginning in 2003 and thereafter, the amount deductible under section 179 is increased to $25,000.

Section 167(f)(1) provides that capitalized computer software costs, other than computer software to which section 197 applies, are recovered ratably over 36 months.

Explanation of Provision

The provision allows an additional first-year depreciation deduction equal to 30 percent of the adjusted basis of qualified New York Liberty Zone (''Liberty Zone'') property. The additional depreciation deduction is allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year.

Property qualifies for the additional first-year depreciation deduction if the property is (1) property to which MACRS applies except qualified leasehold improvement property and any railroad grading or tunnel bore, or (2) computer software other than computer software covered by section 197 and, substantially all of the use of such property is in the Liberty Zone. In order to be qualified Liberty Zone property, the original use of the property in the Liberty Zone must commence with the taxpayer on or after September 11, 2001. A special rule precludes the additional first-year depreciation deduction for property that is required to be depreciated under the alternative depreciation system of MACRS.

In addition, property qualifies only if acquired by purchase by the taxpayer (1) after September 10, 2001 and placed in service on or before December 31, 2006, and no binding written contract for the acquisition is in effect before September 11, 2001. For nonresidential real property and residential rental property the property must be placed in service on or before December 31, 2009 in lieu of December 31, 2006. Finally, property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer qualifies if the taxpayer begins the manufacture, construction, or production of the property after September 10, 2001, and the property is placed in service on or before December 31, 2006 (and all other requirements are met). Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

The Liberty Zone means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

The following examples illustrate the operation of the provision.

Example 1.—Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs $1 million. Under the provision, the taxpayer is allowed an additional first-year depreciation deduction of $300,000. The remaining $700,000 of adjusted basis is recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

Example 2.—Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs $100,000. In addition, assume that the property qualifies for the expensing election under section 179. Under the provision, the taxpayer is first allowed a $59,000 deduction under section 179. The taxpayer then is allowed an additional first-year depreciation deduction of $12,300 based on $41,000 ($100,000 original cost less the section 179 deduction of $59,000) of adjusted basis. Finally, the remaining adjusted basis of $28,700 ($41,000 adjusted basis less $12,300 additional first-year depreciation) is to be recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

2. Treatment of qualified leasehold improvement property (sec. 301(b) of the bill and new sec. 1400L of the Code)

Present Law

Depreciation of leasehold improvements. Depreciation allowances for property used in a trade or business generally are determined under the modified Accelerated Cost Recovery System (''MACRS'') of section 168. Depreciation allowances for improvements made on leased property are determined under MACRS, even if the MACRS recovery period assigned to the property is longer than the term of the lease (sec. 168(i)(8)). This rule applies regardless whether the lessor or lessee places the leasehold improvements in service. If a leasehold improvement constitutes an addition or improvement to nonresidential real property already placed in service, the improvement is depreciated using the straight-line method over a 39-year recovery period, beginning in the month the addition or improvement was placed in service (secs. 168(b)(3), (c)(1), (d)(2), and (i)(6)).

Treatment of dispositions of leasehold improvements. A lessor of leased property that disposes of a leasehold improvement which was made by the lessor for the lessee of the property may take the adjusted basis of the improvement into account for purposes of determining gain or loss if the improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease. This rule conforms the treatment of lessors and lessees with respect to leasehold improvements disposed of at the end of a term or lease. For purposes of applying this rule, it is expected that a lessor must be able to separately account for the adjusted basis of the leasehold improvement that is irrevocably disposed of or abandoned. This rule does not apply to the extent section 280B applies to the demolition of a structure, a portion of which may include leasehold improvements.

Explanation of Provision

The provision provides that 5-year property for purposes of the depreciation rules of section 168 includes qualified leasehold improvement property place in service after September 10, 2001 and before January 1, 2007. The straight-line method is required to be used with respect to qualified leasehold improvement property.

Qualified leasehold improvement property is any improvement to an interior portion of a building that is nonresidential real property if such building is located in the New York Liberty Zone, provided certain requirements are met. The improvement must be made under or pursuant to a lease either by the lessee (or sublessee) of that portion of the building, or by the lessor of that portion of the building. That portion of the building is to be occupied exclusively by the lessee (or any sublessee). The improvement must be placed in service more than three years after the date the building was first placed in service.

Qualified leasehold improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, any structural component benefiting a common area, or the internal structural framework of the building.

A 9-year period is specified as the class life of qualified leasehold improvement property for purposes of the alternative depreciation system. Therefore, the general rule that the class life for nonresidential real and residential rental property is 40 years does not apply to qualified leasehold improvement property.

For purposes of the provision, a commitment to enter into a lease is treated as a lease, and the parties to the commitment are treated as lessor and lessee. A lease between related persons is not considered a lease for this purpose.

Under the provision, an improvement made by the person who was the lessor of the improvement when it was placed in service generally is treated as qualified leasehold improvement property only so long as the improvement is held by that person. Exceptions are provided under this rule in the case of certain changes in form of business. Under these exceptions, property does not cease to be qualified leasehold improvement property under the provision by reason of (1) death, (2) a transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies, or (3) a mere change in the form of conducting the trade or business so long as the property is retained in the business as qualified leasehold improvement property and the taxpayer retains a substantial interest in the business.

3. Increase in expensing treatment for business property used in the New York Liberty Zone (sec. 301(c) of the bill and new sec. 1400L of the Code)

Present Law

Present law provides that, in lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $24,000 (for taxable years beginning in 2001 or 2002) of the cost of qualifying property placed in service for the taxable year (sec. 179). This amount is increased to $25,000 of the cost of qualified property placed in service for taxable years beginning in 2003 and thereafter. The $24,000 ($25,000 for taxable years beginning in 2003 and thereafter) amount is phased-out (but not below

zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000.

Additional section 179 incentives are provided with respect to a qualified zone property used by a business in an empowerment zone (sec. 1397A). Such a business may elect to deduct an additional $20,000 (i.e., a total of $44,000) of the cost of qualified zone property placed in service in year 2001. The $20,000 amount is increased to $35,000 for taxable years beginning in 2002 and thereafter. In addition, the phase-out range is applied by taking into account only 50 percent of the cost of qualified zone property that is section 179 property.

The amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

Explanation of Provision

The provision increases the amount a taxpayer can deduct under section 179 for qualifying property used in the New York Liberty Zone. Specifically, the provision increases the maximum dollar amount that may be deducted under section 179 by the lesser of (1) $35,000 or (2) the cost of qualifying property placed in service during the taxable year. This amount is in addition to the amount otherwise deductible under the present-law rules of section 179.

Qualifying property means section 179 property purchased and placed in service by the taxpayer after September 10, 2001 and before January 1, 2007, where (1) substantially all of its use in the New York Liberty Zone in the active conduct of a trade or business by the taxpayer in the zone, and (2) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001.

As under present law with respect to empowerment zones, the phase-out range for the section 179 deduction attributable to New York Liberty Zone property is applied by taking into account only 50 percent of the cost of New York Liberty Zone property that is section 179 property. Also, no general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

4. Authorize issuance of tax-exempt private activity bonds for rebuilding the portion of New York City damaged in the September 11, 2001, terrorist attack (sec. 301(d) of the bill and new sec. 1400L of the Code)

Present Law

Rules governing issuance of tax-exempt bonds

In general

Interest on debt incurred by States or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds (sec. 103). Interest on bonds that nominally are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and payment of which is derived from funds of such a private person is taxable unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a revenue Act. These bonds are called ''private activity bonds.'' The term ''private person'' includes the Federal Government and all other individuals and entities other than States or local governments.

Private activities eligible for financing with tax-exempt private activity bonds

Present law includes several exceptions permitting States or local governments to act as conduits providing tax-exempt financing for private activities. Both capital expenditures and limited working capital expenditures of charitable organizations described in section 501(c)(3) of the Code (''qualified 501(c)(3) bonds'') may be financed with tax-exempt bonds.

States or local governments may issue tax-exempt ''exempt-facility bonds'' to finance property for certain private businesses. Business facilities eligible for this financing include transportation (airports, ports, local mass commuting, and high speed intercity rail facilities); privately owned and/or privately operated public works facilities (sewage, solid waste disposal, local district heating or cooling, and hazardous waste disposal facilities); privately owned and/or operated low-income rental housing; and certain private facilites for the local furnishing of electricity or gas. A further provision allows tax-exempt financing for ''environmental enhancements of hydro-electric generating facilities.'' Tax-exempt financing also is authorized for capital expenditures for small manufacturing facilities and land and equipment for first-time farmers (''qualified small-issue bonds''), local redevelopment activities (''qualified redevelopment bonds''), and eligible empowerment zone and enterprise community businesses.

Tax-exempt private activity bonds also may be issued to finance limited non-business purposes: certain student loans and mortgage loans for owner-occupied housing (''qualified mortgage bonds'' and ''qualified veterans' mortgage bonds''). Purchasers of houses financed with qualified mortgage bonds must be first-time homebuyers satisfying prescribed income limits, the purchase prices of the houses is limited, the amount by which interest rates charged to homebuyers may exceed the interest paid by issuers is restricted, and a recapture provision applies to target the benefit to purchasers having longer-term need for the subsidy provided by the bonds. Qualified veterans' mortgage bonds are not subject to these limitations, but these bonds may only be issued by five States and may only be used to finance mortgage loans to veterans who served on active duty before January 1, 1977.

With the exception of qualified 501(c)(3) bonds, private activity bonds may not be issued to finance working capital requirements of private businesses.

In most cases, the aggregate volume of tax-exempt private activity bonds that may be issued in a State is restricted by annual volume limits. These annual volume limits are equal to $62.50 per resident of the State, or $187.5 million of greater. The volume limits are scheduled to increase to the greater of $75 per resident of the State or $225 million in calendar year 2002. After 2002, the volume limits will be indexed annually for inflation.

Arbitrage restrictions on tax-exempt bonds

The Federal income tax does not apply to the income of States and local governments that is derived from the exercise of an essential governmental function. To prevent these tax-exempt entities from issuing more Federally subsidized tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined ''temporary periods'' before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g. ''reasonably required reserve or replacement funds''). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government. Governmental bonds are subject to less restrictive arbitrage rules than most private activity bonds.

Miscellaneous additional restrictions on tax-exempt bonds

Several additional restrictions apply to the issuance of tax-exempt bonds. First, private activity bonds (other than qualified 501(c)(3) bonds) may not be advance refunded. Governmental bonds and qualified 501(c)(3) bonds may be advance refunded one time. An advance refunding occurs when the refunded bonds are not retired within 90 days of issuance of the refunding bonds.

Issuance of private activity bonds is subject to restrictions on use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities, (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores) and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Additionally, the term of the bonds generally may not exceed 120 percent of the economic life of the property being financed and certain public approval requirements (similar to requirements that typically apply under State law to issuance of governmental debt) apply under Federal law to issuance of private activity bonds. Present law precludes substantial users of property financed with private activity bonds from owning the bonds to prevent their deducting tax-exempt interest paid to themselves. Finally, owners of most private-activity-bond-financed property are subject to special ''change-in-use'' penalties if the use of the bond-financed property changes to a use that is not eligible for tax-exempt financing while the bonds are outstanding.

Explanation of Provision

The provision authorizes issuance of $15 billion of tax-exempt private activity bonds to finance the construction and rehabilitation of commercial and residential rental real property in a newly designated Liberty Zone (''Zone'') of New York City. Property eligible for financing with these bonds includes buildings and their structural components, fixed tenant improvements, and public utility property (e.g., gas, water, electric and telecommunication lines), all as designated by the Governor of New York. Bonds authorized under the provision for the Zone may be issued during the period January 1, 2002 through December 31, 2004. The Zone is defined as the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan.

If the Governor determines that it is not feasible to use all of the authorized bond proceeds for property located in the Zone, up to $7 billion of bond proceeds may be used for the construction and rehabilitation of nonresidential real property (including fixed tenant improvements) located outside the Zone and within New York City. Bond-financed property located outside the Zone is required to meet the additional requirement that the project have at least 100,000 square feet of usable office or other commercial space in a single building or multiple adjacent buildings.

Subject to the following exceptions and modifications, issuance of these tax-exempt

bonds is subject to the general rules applicable to issuance of exempt-facility private activity bonds: (1) Issuance of the bonds is not subject to the aggregate annual State private activity bond volume limits (sec. 146); (2) the restriction on use of private activity bond proceeds to finance land acquisition is determined by reference to the $15 billion amount of bonds authorized under the provision rather than by reference to individual bond issues (sec. 147(c)); (3) the restriction on acquisition of existing property is applied using a minimum requirement of 50 percent of the cost of acquiring the building being devoted to rehabilitation (sec. 147(d)); (4) the special arbitrage expenditure rules for certain construction bond proceeds apply to construction proceeds of the bonds (sec. 148(f)(4)(C)); (5) loan repayments may not be used to originate new loans; (6) interest on the bonds is not a preference item for purposes of the alternative minimum tax preference for private activity bond interest (sec. 57(a)(5)); and (7) property located within the Zone that is financed with proceeds of these bonds (but not such property that is located outside the Zone) is not considered tax-exempt bond financed property to the extent of such financing and is eligible for cost recovery deductions computed under the general MACRS system and the bonus depreciation provided under the provision (to the extent that the property otherwise qualifies for these benefits).

Effective Date

The provision is effective for bonds issued during the period January 1, 2002 through December 31, 2004.

5. Extension of replacement period for certain property involuntarily converted in the New York Liberty Zone (sec. 301(e) of the bill and new sec. 1400L of the Code)

Present Law

A taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period (the ''replacement period'') property similar or related in service or use (sec. 1033). If the taxpayer does not replace the converted property with property similar or related in service or use, then gain generally is recognized. If the taxpayer elects to apply the rules of section 1033, gain on the converted property is recognized only to the extent that the amount realized on the conversion exceeds the cost of the replacement property. In general, the replacement period begins with the date of the disposition of the converted property and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized. The replacement period is extended to three years if the converted property is real property held for the productive use in a trade business or for investment.

Special rules apply for property converted in a Presidentially declared disaster. With respect to a principal residence that is converted in a Presidentially declared disaster, no gain is recognized by reason of the receipt of insurance proceeds for unscheduled personal property that was part of the contents of such residence. In addition, the replacement period for the replacement of such a principal residence is extended to four years after the close of the first taxable year in which any part of the gain upon conversion is realized. With respect to investment or business property that is converted in a Presidentially declared disaster, any tangible property acquired and held for productive use in a business is treated as similar or related in service or use to the converted property.

Explanation of Provision

The provision extends the replacement period to five years for a taxpayer to purchase property to replace property that was involuntarily converted within the New York Liberty Zone as a result of the terrorist attacks that occurred on September 11, 2001. However, the five-year period is available but only if substantially all of the use of the replacement property is in New York City. In all other cases, the present-law replacement period rules continue to apply.

Effective Date

The provision is effective for property in the New York Liberty Zone involuntarily converted as a result of the terrorist attacks occurring on September 11, 2001.

D. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

(SEC. 401 OF THE BILL AND SEC. 6103 OF THE CODE)

Present Law

In general. Returns and return information are confidential (sec. 6103). A ''return'' is any tax return, information return, declaration of estimated tax, or claim for refund filed under the Code on behalf of or with respect to any person. The term return also includes any amendment or supplement, including supporting schedules, attachments, or lists, which are supplemental to or are part of a filed return. Return information is defined broadly. It includes the following information: A taxpayer's identity, the nature, source or amount of income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments; whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense; any part of any written determination or any background file document relating to such written determination which is not open to public inspection under section 6110; Any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to the agreement or any application for an advance pricing agreement; and any agreement under section 7121 (relating to closing agreements), and any similar agreement, and any background information related to such agreement or request for such agreement (sec. 6103(b)(2)).

The term ''return information'' does not include data in a form that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer. ''Taxpayer return information'' means return information which is filed with,or furnished to, the Internal Revenue Service by or on behalf of the taxpayer to whom such return information relates.

Section 6103 provides that returns and return information may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to the information except as provided in the Internal Revenue Code. Section 6103 contains a number of exceptions to this general rule of nondisclosure that authorize disclosure in specially identified circumstances (including nontax criminal investigations) when certain conditions are satisfied.

Recordkeeping and safeguard requirements also are imposed. These requirements establish a system of records to keep track of disclosure requests and disclosures and to ensure that the information is securely stored and that access to the information is restricted to authorized persons. These conditions and safeguards are intended to ensure that an individual's right to privacy is not unduly compromised and the information is not misused or improperly disclosed. The IRS also must submit reports to the Joint Committee on Taxation and to the public regarding requests for and disclosures made of returns and return information 90 days after the close of the calendar year (sec. 6103(p)(3)). Criminal and civil sanctions apply to the unauthorized disclosure or inspection of returns and return information (secs. 7213, 7213A, and 7431).

Disclosure of returns and return information for use in nontax criminal investgations—by ex parte court order

A Federal agency enforcing a nontax criminal law must obtain an ex parte court order to receive a return or taxpayer return information (i.e., that information submitted by or on behalf of a taxpayer to the IRS) (sec. 6103(i)(1)). Only the Attorney General, Deputy Attorney General, Assistant Attorney Generals, United States Attorneys, Independent Counsels, or an attorney in charge of an organized crime strike force may authorize an application for the order.

For a judge or magistrate to grant such an order, the application must demonstrate that: There is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed; there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act; the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act; and the information sought reasonably cannot be obtained, under the circumstances, from another source.

Pursuant to the ex parte order, the information may be disclosed to officers and employees of the Federal agency who are personally and directly engaged in (1) the preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is a party, (2) any investigation which may result in such a proceeding, or (3) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party.

A Federal agency may obtain, by ex parte court order, the return and return information of a fugitive from justice for purposes of locating such individual (sec. 6103(i)(5)). The application for an ex parte order must establish that (1) a Federal felony arrest warrant has been issued and taxpayer is a fugitive from justice, (2) the return or return information is sought exclusively for locating the fugitive taxpayer, and (3) reasonable cause exists to believe the information may be relevant in determining the location of the fugitive. Only the Attorney General, Deputy Attorney General, Assistant Attorney Generals, United States Attorneys, Independent Counsels, or an attorney in charge of an organized crime strike force may authorize an application for this order. Once a court grants the application for an ex parte order, the return or return information may be disclosed to any Federal agency exclusively for purposes of locating the fugitive individual.

Agency request procedure for disclosure of return information other than taxpayer return information to the IRS for use in criminal investigations

For nontax criminal investigations, Federal agencies can obtain return information, other than taxpayer return information,

without a court order. For nontax criminal purposes, the head of a Federal agency and other persons specifically identified by section 6103 may make a written request for return information that was not provided to the IRS by the taxpayer or his representative (sec. 6103(i)(2)). The written request must contain: The taxpayer's name, and address; the taxable period for which the information is sought; the statutory authority under which the criminal investigation or judicial, administrative or grand jury proceeding is being conducted; and the reasons why such disclosure is or may be relevant to the investigation or proceeding. Unlike the requirements for an ex parte order, the requesting agency does not have to demonstrate that the information sought is not reasonably available elsewhere.

Disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances

Criminal activities

Section 6103 permits the IRS to disclose return information (other than taxpayer return information) that may be evidence of a crime (sec. 6103(i)(3)(A)). The IRS may make the disclosure in writing to the head of a Federal agency charged with enforcing the laws to which the crime relates. Return information also may be disclosed to apprise Federal law enforcement of the imminent flight of any individual from Federal prosecution. The IRS may not disclose returns under this provision.

Emergency circumstances

In cases of imminent danger of death or physical injury to an individual, the IRS may disclose return information to Federal and State law enforcement agencies (sec. 6103(i)(3)(B)). The statute does not grant authority, however, to disclose return information to local law enforcement, such as city, county, or town police. The statute does not permit the IRS to disclose return information concerning terrorist activities if there is no imminent danger of death or physical injury to an individual.

Tax convention information. With limited exceptions, the Code prohibits the disclosure of tax convention information (sec. 6105). A tax convention is any: (1) income tax or gift and estate tax convention, or (2) other convention or bilateral agreement (including multilateral conventions and agreements and any agreement with a possession of the United States) providing for the avoidance of double taxation, the prevention of fiscal evasion, nondiscrimination with respect to taxes, the exchange of tax relevant information with the United States, or mutual assistance in tax matters. Tax convention information is any: (1) agreement entered into with the competent authority of one or more foreign governments pursuant to a tax convention; (2) application for relief under a tax convention; (3) background information related to such agreement or application; (4) document implementing such agreement; and (5) other information exchanged pursuant to a tax convention which is treated as confidential or secret under the tax convention.

The general rule that tax convention information cannot be disclosed does not apply to the disclosure of tax convention information to persons or authorities (including courts and administrative bodies) that are entitled to disclosure under the tax convention and any generally applicable procedural rules regarding applications for relief under a tax convention. It also does not apply to the disclosure of tax convention information not relating to a particular taxpayer if the IRS determines, after consultation with the parties to the tax convention, that such disclosure would not impair tax administration.

Explanation of Provision

In general. The bill expands the availability of returns and return information for purposes of investigating terrorist incidents, threats, or activities, and for analyzing intelligence concerning terrorist incidents, threats, or activities. In general, under the bill, returns and taxpayer return information must be obtained pursuant to an ex parte court order. Return information, other than taxpayer return information, generally is available upon a written request meeting specific requirements. Present-law safeguards, recordkeeping, reporting requirements, and civil and criminal penalties for unauthorized disclosures apply to disclosures made pursuant to the bill. The bill also permits the disclosure of tax convention information for the same purposes and in the same manner that return information is made available under the bill. No disclosures may be made under the bill after December 31, 2003.

Disclosure of returns and return information taxpayer return information—by ex parte court order

Ex parte court orders sought by Federal law enforcement and Federal intelligence agencies.—The bill permits, pursuant to an ex parte court order, the disclosure of returns and return information (including taxpayer return information) to certain officers and employees of a Federal law enforcement agency or Federal intelligence agency. These officers and employees are required to be personally and directly engaged in any investigation of, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. These officers and employees are permitted to use this information solely for their use in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceeding, pertaining to any such terrorist incident, threat, or activity.

The Attorney General, Deputy Attorney General, Associate Attorney General, an Assistant Attorney General, or a United States attorney, may authorize the application for the ex parte court order to be submitted to a Federal district court judge or magistrate. The Federal district court judge or magistrate would grant the order if based on the facts submitted he or she determines that: There is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity; and the return or return information is sought exclusively for the use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

Special rule for ex parte court ordered disclosure initiated by the IRS.—If the Secretary of Treasury possesses returns or return information that may be related to a terrorist incident, threat or activity, the Secretary of the Treasury (or his delegate), may on his own initiative, authorize an application for an ex parte court order to permit disclosure to Federal law enforcement. In order to grant the order, the Federal district court judge or magistrate must determine that there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity. Under the bill, the information may be disclosed only to the extent necessary to apprise the appropriate federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity and for officers and employees of that agency to investigate or respond to such terrorist incident, threat, or activity. Further, use of the information is limited to use in a Federal investigation, analysis, or proceeding concerning a terrorist incident, threat, or activity. Because the Department of Justice represents the Secretary of the Treasury in Federal district court, the Secretary is permitted to disclose returns and return information to the Department of Justice as necessary and solely for the purpose of obtaining the special IRS ex parte court order.

Disclosure of return information other than taxpayer return information

Disclosure by the IRS without a request.—The bill permits the IRS to disclose return information, other than taxpayer return information, related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat or activity. As under present law Code section 6103(i)(3)(A), the IRS on its own initiative and without a written request may make this disclosure. The head of the Federal law enforcement agency may disclose information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity. A taxpayer's identity is not treated as return information supplied by the taxpayer or his or her representative.

Disclosure upon written request of a Federal law enforcement agency.—The bill permits the IRS to disclose return information, other than taxpayer return information, to officers, and employees of Federal law enforcement upon a written request satisfying certain requirements. The request must: (1) be made by the head of the Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and (2) set forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity. The information is to be disclosed to officers and employees of the Federal law enforcement agency who would be personally and directly involved in the response to or investigation of terrorist incidents, threats, or activities. The information is to be used by such officers and employees solely for such response or investigation.

The bill permits the redisclosure by a Federal law enforcement agency to officers and employees of State and local law enforcement personally and directly engaged in the response to or investigation of the terrorist incident, threat, or activity. The State or local law enforcement agency must be part of an investigative or response team with the Federal law enforcement agency for these disclosures to be made.

Disclosure upon request from the Departments of Justice or Treasury for intelligence analysis of terrorist activity.—Upon written request satisfying certain requirements discussed below, the IRS is to disclose return information (other than taxpayer return information) to officers and employees of the Department of Justice, Department of Treasury, and other Federal intelligence agencies, who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence or investigation concerning terrorist incidents, threats, or activities. Use of the information is limited to use by such officers and employees in such investigation, collection, or analysis.

The written request is to set forth the specific reasons why the information to be disclosed is relevant to a terrorist incident, threat, or activity. The request is to be made by an individual who is (1) an officer or employee of the Department of Justice or the

Department of Treasury, (2) appointed by the President with the advice and consent of the Senate, and (3) responsible for the collection, and analysis of intelligence and counterintelligence information concerning terrorist incidents, threats, or activities. The Director of the United States Secret Service also is an authorized requester under the bill.

Tax convention information. The bill permits the disclosure of tax convention information on the same terms as return information may be disclosed under the bill, except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government.

Definitions. The term ''terrorist incident threat, or activity'' is statutorily defined to mean an incident, threat, or activity involving an act of domestic terrorism or international terrorism, as both of those terms were defined in the recently enacted USA PATRIOT Act.

Effective Date

The provision is effective for disclosures made on or after the date of enactment.

E. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS (SEC. 501 OF THE BILL)

Present Law

Present law provides for the transfer of Social Security taxes and certain self-employment taxes to the Social Security trust fund. In addition, the income tax collected with respect to a portion of Social Security benefits included in gross income is transferred to the Social Security trust fund.

Explanation Provision

The bill provides that the Secretary is to annually estimate the impact of the bill on the income and balances of the Social Security trust fund. If the Secretary determines that the bill has a negative impact on the income and balances of the fund, then the Secretary is to transfer from the general revenues of the Federal government an amount sufficient so as to ensure that the income and balances of the Social Security trust funds are not reduced as a result of the bill. Such transfers are to be made not less frequently than quarterly.

The bill provides that the provisions of the bill are not to be construed as an amendment of title II of the Social Security Act.

Effective Date

The provision is effective on the date of enactment.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

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

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I met with many of the families of the victims of September 11. I have attended funeral masses and funerals, and I have met personally, as other Members have from our area, with some of the widows of the victims of these attacks when they visited Capitol Hill on December 5. They need our help and they need it now. Many are from home towns in my district and throughout the State of New Jersey and New York and Connecticut and Virginia and Pennsylvania.

As one of the widows recently recounted to me, the charities have helped with the immediate aftermath, but this tax relief bill will help some of their present concerns, and the victims' compensation fund will help them as they move forward into the future.

While we can never replace their loss, we can help alleviate some of the pain for these victims as they think about their immediate and future financial needs, and about how they will provide for their families in the coming years. We do so with this bill.

In this bill, we waive income tax liability for 2 years for the victims. We provide relief from the State tax, and make sure that charitable relief and other forms of financial assistance remain tax-free.

On behalf of the victims from New Jersey and the other States, Mr. Speaker, I want to thank the Speaker, the gentleman from Illinois (Mr. HASTERT), the majority leader, and particular, the chairman of the Committee on Ways and Means, for bringing up this bill expeditiously.

Our hearts go out to these families, and I want to thank my congressional colleagues for moving on this bill.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from New York (Mr. REYNOLDS), a member of the New York delegation.

Mr. REYNOLDS. Mr. Speaker, I thank the gentleman for yielding time to me, and I want to thank him for his leadership in moving this legislation before we end this week's work, with the hope of continuing and getting a resolve before we end the session.

I thank him for his leadership, along with that of our ranking member, the gentleman from New York (Mr. RANGEL), and particularly the gentleman from New York (Mr. FOSSELLA), who has worked diligently, as well as the New York City representative helping our conference understand clearly some of the agenda needed.

Then also we must turn to the gentleman from New York (Mr. HOUGHTON), who has the very, very important ingredient of his expertise so he was able to work with the gentleman from California (Mr. THOMAS) in helping him in this legislation. That comes from listening to our Governor and mayor on the agendas of what it is going to take to rebuild tens of millions of lost square footage of space in those 15 blocks of lower Manhattan, let alone the countless loss of jobs that have occurred in that tragedy.

Mr. Speaker, this is part of a working, fundamental solution to bring that to fruition. I salute all for bringing it to the floor today.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

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

Mr. FERGUSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to thank the chairman of the Committee on Ways and Means, the ranking member, and members on both sides of the aisle for working on this important legislation.

On September 11, our Nation and the world was struck with tragedy. But for 81 families in the district that I represent in New Jersey, it also meant the loss of a loved one in their own family. They have been struggling for 3 months to put their lives back together. People, Americans across the Nation and people around the world have stepped up to help them in many different ways: People have donated their time, their energy, their blood, their money. They have been assisted in many ways.

But as we know, as time goes on, the attention begins to wane and the realities of life, of mortgage payments, of credit card payments, of tuition bills and other commitments, long-term real-life commitments, begin to build up. We have to make sure that we do not forget those who have experienced this tragedy firsthand.

As my colleague, the gentleman from New Jersey (Mr. FRELINGHUYSEN) mentioned a moment ago, we have had an opportunity to meet with scores of, unfortunately, mostly widows from our districts, from New Jersey and from around our region, who are now dealing with the aftermath. They are not only dealing with the emotional and the physical excruciating pain of the loss of a loved one, but they are also struggling to rebuild their lives, to help their kids to think about the future and not simply to think about these tragedies of the recent past.

We need to do our part in this Congress, and that is why I am delighted and proud that we worked so hard and so quickly 2 days after this tragedy to pass this important legislation out of this Chamber and to send it to the other body, and am pleased now that the other body has done their work and that we have brought this back.

I am pleased that now, today, we will be able to say to these families that we have not failed them, we continue to stand by them, and we will be here with them today and tomorrow and next month and next year to help them. Whether it is tax relief or education relief or simply being a friend and neighbor, we are there to support them and support their work in rebuilding their lives. I thank this Congress for working.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER), in whose district the Twin Towers once stood high.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, lower Manhattan, as we all know, is devastated by the attacks on the World Trade Center. Over 20 million square feet of office was destroyed and another 15 million rendered unusable, and 125,000 jobs out of the 300,000 private sector jobs in lower Manhattan were destroyed. It will take a strong private-public partnership to

revive lower Manhattan economically. A package of tax incentives, intelligently arranged, would stimulate private investment in the area.

The Houghton bill and the proposals by Senator SCHUMER and CLINTON, with the gentleman from New York (Mr. RANGEL), should be seen in tandem.

The Houghton bill is important and constructive for the long-term economic strength of New York, but does little, if anything, for our immediate critical needs. The Schumer-Clinton-Rangel package contains measures that are vital for the immediate survival of small businesses in lower Manhattan.

□ 1530

The Houghton package represents an important element of the package. We need to nurse lower Manhattan back to health, but before businesses will return to lower Manhattan, we must rebuild the neighborhood's infrastructure in utilities and transportation. We must rebuild power lines, phone systems, sewers and water mains. We have to restore public transportation. This will take time. Utility facilities are so badly damaged that now cables guarded by police over land are the only facilities bringing power to downtown. We are literally one snowplow away from a blackout in lower Manhattan.

Small businesses are in critical shape and need an immediate boost. The Houghton boost will not help the small businesses survive the transitional period until the neighborhood is rebuilt and their sales recover. We must ease the period of transition until larger businesses return to the area.

Small businesses in lower Manhattan will lose an estimated $5 billion in sales in the last quarter of 2001 alone. Many have seen their sales decline by up to 80 percent because of disruption and damage to the area. Mr. Speaker, 10,000 of the 14,000 small businesses in lower Manhattan are at risk of failure within the next several months as a direct result of the attack. If we do not give them help to enable them to survive, the longer-term proposals in the Houghton bill will come too late to revive lower Manhattan, because if 10,000 small businesses fail in lower Manhattan, the larger businesses will not want to return and residents will not want to return.

The elements of the Houghton bill are excellent and important for our long-term needs, but must be supplemented by the provisions for short-term aid, especially long-term grants, especially business grants to our small businesses and the other elements of the Rangel-Clinton-Schumer package. That package could provide immediate assistance for these businesses through expansion of the work opportunity tax credit. The work opportunity tax credit expansion and the cash grants are the two things we need immediately.

So I urge the House to adopt the Houghton bill, but to be under no illusion that the Houghton bill, absent the work opportunity tax credit of the Rangel bill and absent large and immediate infusion of cash grants to small businesses, will save the situation.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. GILMAN).

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

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3373, the New York Liberty Zone Tax Relief Act of 2000. I urge my colleagues to join in supporting this vitally needed legislation which provides a number of tax provisions that are designed to help the city and State of New York to recover economically from the devastating barbaric attack of September 11, and I commend my colleagues, the gentleman from California (Mr. THOMAS), the gentleman from New York (Mr. RANGEL) and the gentleman from New York (Mr. HOUGHTON) for their diligent work on this measure.

New York City, and particularly lower Manhattan, was devastated by the terrorist attacks of September 11. Over 25 million square feet of office space has been destroyed, 15,000 jobs have been displaced in lower Manhattan, representing 2 percent of all the private sector jobs in New York City. Not only do we need to rebuild the economy in lower Manhattan, we also need to rebuild its infrastructure, power lines, water mains, public transportation and sewer lines.

Small businesses in lower Manhattan are fighting for their very survival.

This bill includes five key provisions which create some liberty zones, encouraging investment and includes issuing tax exempt liberty bonds to finance liberty zone commercial, residential rental and public utility property.

It also includes allowance of a first year 30 percent depreciation and a 5-year recovery period for leasehold improvements and a small business first year depreciation of $35,000.

This victim tax relief bill also increases the replacement period for reinvesting insurance proceeds.

Mr. Speaker, I am pleased to stand with my New York colleagues in supporting this legislation which will help rebuild a key portion of the economy of New York City and help our State. Accordingly, I urge my colleagues to join in passing this very urgently needed bill.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from California (Mr. THOMAS) for yielding me the time. I thank him also for staying, true to his word. He said he would have this bill on the floor in three days. Actually, he had the bill on the floor just a few days after the horrific event of 9/11. We want to thank him, all of us from New Jersey, for bringing this very important legislation back to the floor with the Senate changes.

Passage of this bill, Mr. Speaker, will provide immediate and substantial tax rebates to the spouses and children of nearly 3,500 victims who met tragic deaths in the horrific attacks on September 11.

Seven hundred New Jersey residents, more than 50 from my own District, never came home on September 11. They were the first victims and the first heroes of America's war on terrorism.

There are additional heroes, Mr. Speaker, namely, the wives, the widows of those who were murdered on September 11. Over the last several weeks, both my wife, Marie, and I and members of my staff have met many of the widows, and we have been moved greatly by their loss as well as by their courage. Last week, my wife and I, as well as other members of the New Jersey delegation, joined with several of those widows from our State in a meeting with Speaker HASTERT, and he, too, was moved by what they had to say.

These brave women courageously reminded Congress of the heartbreaking burdens that they have faced since the shock of 9/11. They made it very clear that this tax relief is a matter of survival to them. Much of the money has run out that they had saved personally. For many of them, the assistance they got from charitable contributions ran out on December 1. The Victims Compensation Fund has not kicked in yet. There had to be something to provide very real money a bridge for these individuals.

The Victims Tax Relief Bill will help to do that.

Among the more moving remarks, and there were many that we have heard over the last several months, were the comments of Sheila Martello, who lost her husband Jim in the World Trade Center. Last week Mrs. Martello said "we do not want to be here in Washington fighting for this benefit. We would rather be doing what we do best, raising our children."

Again, I want to thank the chairman for his leadership on this. I thank the Speaker for his personal commitment. Both Mr. THOMAS and Speaker HASTERT moved very quickly right after this tragedy, along with the gentleman from New York (Mr. RANGEL). This is a good, bipartisan bill and will help these people through this very, very difficult time. It could not come at a more important time for them.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. GRUCCI), actually Long Island.

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

Mr. GRUCCI. Mr. Speaker, I would like to thank the distinguished gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means, and the gentleman from New York (Mr. RANGEL), the ranking member, for their commitment and their work on this program to help restore economic viability to New York

and to our country as a whole. I think this bill, the Houghton bill, is an excellent tool to accomplish that.

When we look back at the tragedy that has happened, nothing can ever replace the loss of life and the ache in the people's hearts that are experiencing that loss of life. In my district alone, I went to a number of various funerals and memorial services for where there was no funeral able to be given.

And you can see, the pain in the hearts and in the face of people, the children, the surviving spouses, the friends, the neighbors, and they will always have that pain.

There is a secondary pain that is out there, Mr. Speaker. There is a pain that is being experienced by many who worked all of their life to try to build a business, to try to create something for their family, for their children, to allow them to have something for future generations, and that was wiped out on September 11, gone completely. Devastation has set in and the only way to help them restore that kind of dream once again, the dream to be a small business entrepreneur in this country, which is something that people come here for.

I know my family, my family had migrated to this country for that very purpose, to raise their children, to raise a business and to have something. Well, this bill will put $6.1 billion into our economy and it will enable people to do that. It will give them their hopes and their dreams back and it will enable them to build the more than 25 million square feet of space that was lost, spaces like delicatessens and boutiques and haberdasheries, and, yes, the major conglomerates and businesses of our country where hundreds of thousands people were employed.

This bill is a good bill. It is a bipartisan bill, and I urge my colleagues in this House to support it and to help America get back on their feet and help New York get back on its feet.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SWEENEY) who, without his involvement and active participation in structuring work with the governmental officials in New York, we would not have been able to move with the haste with which we did.

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

Mr. SWEENEY. Mr. Speaker, I am proud and happy to be here on the floor today.

On September 11 all of America suffered losses. Some of us suffered more direct losses. And certainly in the last 3 months it has been an extreme struggle trying to figure out the right process, the right way to help make New Yorkers and the victims of those attacks whole again.

I want to salute the ranking member, the gentleman from New York (Mr. RANGEL) for working hard in a bipartisan fashion on this. I want to especially salute the gentleman from New York (Mr. HOUGHTON) from the Committee on Ways and Means, a fellow New Yorker and a colleague who has dedicated every ounce of energy he has had to this effort and to this particular bill.

I especially want to recognize the chairman of the Committee on Ways and Means who made commitments repeatedly the day after the attacks and repeatedly throughout this that he was going to work with us in New York to get this done. He has worked diligently. He has done it at breakneck speed getting the bill to the floor in 3 days. I am extremely gratified.

The fact is, Mr. Speaker, the change in New York will be incremental. The rebuilding efforts will be incremental. This is an important step in the right direction. This is one of the reasons that I have been so outspoken from this side of the aisle for the need for us to pay attention and keep focused and the gentleman from California (Chairman THOMAS) kept focus and kept us focused in bringing this bill, and I am deeply grateful for that.

I would urge our friends and colleagues in the other body to move their bill. They have had it for 3 months. It is time that we move on each of these pieces as expeditiously as we can so we can ensure New Yorkers suffer no greater damage than they already have. Indeed, the rebuilding efforts are going to take time but the commitment and the moral obligation on the part of this body and this Congress is going to be longstanding and must be abided by.

I support this bill. I will urge my colleagues to support it, and once again I thank the chairman for his support.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from California (Mr. THOMAS) has 1 minute remaining. The gentleman from New York (Mr. RANGEL) has 16 minutes remaining.

Mr. RANGEL. Mr. Speaker, I want to join with my colleagues from New York in supporting the concept of this bill and especially the gentleman from New York (Mr. HOUGHTON) who has been really a great pleasure working with over the years and especially as relates to restoring life, both economic life to our great city and our great State.

We do not know whether this is going to come back from the other side, but we do know that there is other legislation that has not passed over there, and working closely with the gentleman from California (Mr. THOMAS), I do hope that we can bring the best ideas that have come out of both Houses and do the best that we can this year by the city of New York.

I would like to say on behalf of delegation once again how grateful we are for the groundswell of support that we have received from this House of Representatives. If ever we thought that we were not a part of the Nation, all over the country and the world stood with us and we are deeply appreciative. We have a long way to go. We have had some legislative setbacks. But I am confident that as the President moves forward to remove this type of risk from other congressional districts, other parts of the country, that we would realize more that the Americans who lost their lives on September 11 are the same type of courageous Americans that lost their lives at Pearl Harbor or at any beachhead that we have had in the United States.

We can never restore the lives to these great people or the heroes that went there to save lives at the risk of their own. But we can let friend and foe alike know that when you strike one part of our great country, you have struck all parts of it. And regardless of our backgrounds or party labels, we do come together as a Nation. And in that spirit, I hope we move forward with this legislation and join with our colleagues on the other side to see what more we can do to repair the harm that has been done.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) has 1 minute remaining.

Mr. THOMAS. Mr. Speaker, Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, I do want to thank my colleague from New York for the kind courtesies and generosities that he has displayed and, most importantly, the House's willingness to move as quickly as we did and recognize that these individuals were, in fact, victims in war and deserve to be focussed on, not just in terms of the symbolism because, clearly, although there were tragedies elsewhere in the United States on that same day, it is not unfair to say that New York City took it on the chin for the rest of the country. And that I, too, have been pleased with the outpouring of response.

We now know that those who died did not die in vain in terms of the symbolism, the rallying of the moral fiber of this country. But at the same time, we have to address the very real physical and material needs of these people who, after all, lost loved ones and had lives devastated.

In that regard, I am very pleased to say that this is not the end of our continued focus on the need of these individuals in New York City and elsewhere.

Mrs. McCARTHY of New York. Mr. Speaker, I rise in support of H.R. 2884, the Victims of Terrorism Relief Act, which I am a proud cosponsor.

This legislation provides much needed tax relief to the victims of the September 11th terrorist attacks. The terrorist attacks on the World Trade Center, the Pentagon, and Pennsylvania directly affected 25,000 families, and left 15,000 children without a parent. Figures show that 35% of those who died were between the ages of 35 and 45, and 85% were 25–55 years old. Not only did these families lose an important part of their lives, but they lost a source of financial support they need and deserve.

I am overcome by the outpouring of support during this difficult time. However, spouses who lost a loved one in the attack are still enduring financial hardships. Even though many charitable organizations have provided some form of relief, the Federal government must do more. Easing their federal tax liability is a step in the right direction.

In addition, this legislation addresses some of the recovery concerns within the New York City area damaged by the terrorist attacks. The creation of the New York Liberty Zone provides numerous tax benefits for qualified property. In order to rebuild, we must also help those businesses that were impacted by the senseless acts of terrorism.

September 11th will forever be synonymous with other historical events that Americans have endured. It will serve as yet another reminder of how Americans come together during difficult times, as well as send a simple message to those who hide behind terrorism—America Will Never Fear You and We Will Always Take Care Of Our Own.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant the order of the House of today, the motion is agreed to.

A motion to reconsider was laid on the table.

□ 1545

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of H.R. 2884, the bill just passed.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. (DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TRIBUTE TO SCOTT BROSIUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WU) is recognized for 5 minutes.

Mr. WU. Mr. Speaker, I rise today to pay tribute to Scott Brosius, the starting third baseman for the New York Yankees and a resident of McMinnville, Oregon. Scott announced his retirement from major league baseball on November 27.

Born and raised in Oregon, Scott played baseball at Rex Putnam High School in Milwaukee and then at Linfield College in McMinnville. In 1987, during his junior year in college, he was drafted by the Oakland Athletics.

During his 11 seasons of major league baseball, first with the A's and later with the New York Yankees, Scott was known as a solid hitter and outstanding defensive third baseman, for which he won the Gold Glove award in 1999.

His best season came in 1998. That year, he batted 300, with 98 RBIs and was named to the American League All Star team. But his career highlight came later that year. During the World Series, in a 4-game sweep of the San Diego Padres, Scott batted 471, hit two home runs, and had six RBIs. He was the clear choice for the World Series' Most Valuable Player. He accomplished all of these post-season feats while his father was undergoing cancer surgery and chemotherapy.

Scott's flare for the dramatic resurfaced during this year's seven-game World Series between the Yankees and the Arizona Diamondbacks, which many have called the most exciting World Series ever. In game five, with the Yankees trailing 2 to 0 in the ninth inning, Scott came to the plate with two outs and a runner on second base. Scott crushed a 1–0 slider from Arizona closer Byung-Hyun Kim to tie the score and send the game into extra innings. Ultimately, the Yankees went on to win the game 3 to 2 in 12 innings.

As an All Star, a Gold Glove winner, a World Series MVP, and a member of three world championship teams, Scott has a lifetime's worth of baseball memoirs. But, Mr. Speaker, I rise today not only to recognize Scott Brosius for his outstanding baseball career but also because I believe he embodies the best of Oregon, and American values.

This year, Scott finished his contract with the New York Yankees and became eligible for free agency. At 35 years of age, and as an 11-year major league veteran, he could easily fetch millions of dollars as a free agent. But Scott turned down the money and the limelight so that he could return to McMinnville to raise his three young children. He has reenrolled at Linfield College to finish his college degree and has offered to help coach the Linfield varsity baseball team.

The example set by people like Scott Brosius reminds us of what is most important in life: values, family, and community.

I wish Scott and his family well, and I thank him for being such a positive role model. Scott, you have the admiration of us all, and personally I envy you for all the time that you will have in Oregon with your family.

TRIBUTE TO VICTIMS OF SEPTEMBER 11, 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, I want to continue reading from the list of names that my colleague, the gentlewoman from Virginia (Mrs. JO ANN DAVIS), has been reading into the RECORD, those who fell in the September 11 tragedy:

John P. O'Neill; Peter J. O'Neill; Sean Gordon Corbet O'Neill; Ken O'Reilly; Kevin M. O'Rourke; Robert W. O'Shea; Patrick J. O'Shea; Timothy F. O'Sullivan; James A. Oakley; Dennis Oberg; Jefferson Ocampo; Douglas Oelschlager; Takashi Ogawa; Albert Ogletree; Philip Paul Ognibene; John Ogonowski; Joseph J. Ogren; Samuel Oitice; Gerald M. Olcott; Christine Ann Olender; Linda Mary Oliva; Elsy Carolina Osorio Oliva; Edward K. Oliver; Leah Oliver; Eric Olsen; Jeffrey James Olsen; Steven John Olson; Barbara Olson; Marueen ''Rene'' L. Olson; Toshihiro Onda; Betty Ong; Michael C. Opperman; Christopher Orgielewicz; Margaret Q. Orloske; Virginia ''Ginger'' Ormiston-Kenworthy; Ruben Ornedo; Juan Romero Orozco; Ronald Orsini; Peter K. Ortale; Jane Orth; Paul Ortiz; Sonia Ortiz; David Ortiz; Emilio ''Peter'' Ortiz, Jr.; Alexander Ortiz; Pablo Ortiz; Masaru Ose; Elsi Carolina Osorio; James Robert Ostrowski; Jason Douglas Oswald; Michael Otten; Isidro Ottenwalder; Michael Ou; Todd Joseph Ouida; Jesus Ovalles; Peter J. Owens; Adianes Oyola; Angel ''Chic'' Pabon; Israel Pabon; Roland Pacheco; Michael Benjamin Packer; Diana B. Padro; Chin Sun Pak; Deepa K. Pakkala; Thomas Anthony Palazzo; Jeffrey Palazzo; Richard Palazzolo; Orio Joseph Palmer; Frank Palombo; Lynn Paltrow; Alan Palumbo; Christopher Panatier; Diominique Lisa Pandolfo; Jonas Martin Panik; Paul Pansini; John Paolillo; Edward J. Papa; Salvatore Papasso; James Pappageorge; Marie Pappalardo; Vinod K. Parakat; Vijayashanker Paramsothy; Nitin Ramesh Parandker; Hardai ''Casey'' Parbhu; James W. Parham; Debra ''Debbie'' Paris; George Paris; Gye-Hyong Park; Philip L. Parker; Michael A. Parkes; Robert Emmett Parks, Jr.; Hashmukhrai C. Parmar; Robert Parro; Diane Parsons; Leobardo Lopez Pascual; Michael Pascuma; Jerrold Paskins; Horace Robert Passananti; Suzanne Passaro; Victor Antonio Martinez Pastrana; Dipti Patel; Manish K. Patel; Avnish Ramanbhai Patel; Steven B. Paterson; James M. Patrick; Lawrence Patrick; Manuel Patrocino; Clifford L. Patterson; Bernard E. ''Bernie'' Patterson; Cira Marie Patti; James Robert Paul; Patrice Sobin Paz; Sharon Cristina Millan Paz; Victor Paz-Gutierrez; Stacey Lynn Peak; Richard Pearlman; Durrell Pearsall; Thomas Pecorelli; Thomas E. Pedicini; Todd D. Pelino; Michel Adrian Pelletier; Anthony Peluso; Angel Ramon Pena; Jose D. Pena; Robert Penniger; Richard A. Penny; Salvatore Pepe; Carl Allen Peralta; Robert David Peraza; Marie

Vola Percoco; Jon Anthony Perconti; Ivan A. Perez; Nancy E. Perez; Anthony Perez; Alejo Perez; Angela Susan Perez; Angel Perez; Berry Berenson Perkins; Joseph Perroncino; Edward Joseph Perrotta; John William Perry; Glenn C. Perry; Emelda Perry; Franklin Allan Pershep; Danny Pesce; Michael J. Pescherine; Donald A. Peterson; Jean Hoadley Peterson; William Russel Peterson; Davin Peterson.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

NATIONAL AFFORDABLE HOUSING TRUST FUND ACT, H.R. 2394

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. SANDERS) IS RECOGNIZED FOR 5 MINUTES.

Mr. SANDERS. Mr. Speaker, I am pleased to announce today that over 1,700 local, State, and national organizations from throughout this country have endorsed H.R. 2394, legislation that I introduced last June, to create a National Affordable Housing Trust Fund. And I especially want to thank for their organizing efforts the National Low-Income Housing Coalition for all of their help in bringing these organizations together around this terribly important issue.

It is almost unprecedented to have such an outpouring of support from such a broad array of groups representing working people through their unions, business leaders, different religious affiliations, bankers, environmentalists, and, of course, affordable-housing advocates. This is perhaps one of the most significant grass roots campaigns to support legislation at one time and has helped us generate our already 126 bipartisan cosponsors. I am here today on the floor of the House to thank all of the groups that have endorsed this legislation and to ask my colleagues to cosponsor this important and much-needed bill. We have come a long way in a short time; but obviously, we need to go further.

A complete list of all of the groups that have endorsed this legislation can be found at the National Housing Trust Fund Campaign's Web site at www.nhtf.org. That is www.nhtf.org, for a complete list of all of the organizations that have endorsed the National Affordable Housing Trust Fund legislation.

Mr. Speaker, experts from across the country have acknowledged that the issue of affordable housing has rapidly become a major national problem. That is true in my State of Vermont, and it is true all across this country. It is an issue in which millions of low-income seniors, the elderly, disabled, and families with children are increasingly unable to afford decent housing.

According to HUD, about 5.4 million Americans today are paying more than half of their limited incomes, more than half of their limited incomes, on housing, or are living in severely substandard housing. Since 1990, the number of families who have ''worst case housing needs'' has increased by 12 percent. That is 600,000 more Americans who cannot afford a decent and safe place to live.

□ 1600

For these families living paycheck to paycheck, one unforeseen circumstance, a sick child, a needed car repair or a large utility bill can send them into homelessness.

This crisis must be addressed. Every American must be entitled to decent, affordable housing. The question is where do we begin? According to the accounting firm of Deloitte & Touche, profits generated by the Federal Housing Administration are expected to exceed $26 billion over the next 7 years. H.R. 2394 would use the surplus to increase affordable housing by creating an affordable housing trust fund. According to housing experts, if the FHA surplus was used to build affordable housing, we could more than triple affordable housing construction next year and provide accommodations to more than 200,000 families.

Mr. Speaker, not only would a national affordable housing trust fund help solve the affordable housing crisis in the United States, it would also generate 1.8 million decent paying new jobs and nearly $50 billion in wages according to a recent study. As today's economy continues to sputter with layoffs up over 600 percent from last year, and as millions of Americans are paying 40 to 50 percent of their limited incomes on housing, the creation of a national affordable housing trust fund is needed more than it has ever been needed.

Mr. Speaker, the bottom line here is that we can put Americans to work building the affordable housing that millions of our fellow Americans need, and we can accomplish two important goals at the same time. Number one, combatting the recession by putting people to work; and second of all, providing decent housing to the families that need it. This is a very important piece of legislation, and I am very proud that 1,700 different organizations, religious organizations, grassroots organizations, are supporting it. I ask my colleagues to support it as well.

COVER-UP OF SALVATI STORY

The SPEAKER pro tempore (Mr. THORNBERRY). Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I spent 7½ years just prior to coming to Congress as a criminal court judge in Tennessee trying the felony criminal cases, the murders, the armed robberies, the rapes. I tried the attempted murder of James Earl Ray, many leading cases, but I can tell Members that I do not think that in my years of law practice or in my years as a judge that I have ever seen a worse miscarriage of justice than that done to Joseph Salvati in Massachusetts where he was made to stay in prison for over 30 years. Even the FBI knew he had not committed the crime for which he had been convicted. Sometimes we read about people who have been wrongly convicted, but almost always in those cases the prosecutors or the law enforcement people honestly thought the people were guilty, and only found out later that they were not.

But in the Salvati case, the FBI knew apparently for 30 years that this man was not guilty of the crime he had been convicted of, and yet they made him stay in prison for more than 30 years.

I can tell Members that the gentleman from Indiana (Mr. BURTON) of the Committee on Government Reform has tried to call attention to this miscarriage of justice and see that nothing like this ever happens again. He held one hearing and he attempted to hold another hearing today about it, but today the Department of Justice refused to release or submit the documents that the gentleman from Indiana (Mr. BURTON) had requested in a continuing cover-up of the original cover-up.

I think it is shameful. In fact, I think it is fair to say that I have never seen the gentleman from Indiana (Mr. BURTON) as angry as he was today, and he said that he is going to told hearings until the Department of Justice has the decency to come forward and do what they can to correct this horrible miscarriage of justice.

I remember reading a cover story in Forbes magazine, certainly a very conservative magazine, in 1993 in which they reported that the Department of Justice had more than quadrupled its budget since 1980, and that there were U.S. attorneys falling all over themselves trying to find cases to prosecute. The article discussed how Federal prosecutors were cherry-picking local cases, taking the best or easiest cases away from local prosecutors so they could have something to do.

This quadrupling of the budget and size of the Department of Justice was being done, even though 94 percent of all crimes were being handled and prosecuted by local and State law enforcement personnel and prosecutors. Even though their work was not going up, their budget and number of employees was.

This article in Forbes said too often in Federal law enforcement the name of the game is publicity, not a reduction in the amount of crime. The article in Forbes said that the Department of Justice was proving that Parkinson's law of bureaucracy was true, that work expands so as to fill the time available for its completion. As the

real or imagined work expands, the bureaucrats ask for more bureaucrats to do it.

Since then, we have expanded the Department of Justice even more. Now here we are giving them more power. Last week Joseph Califano, a former top assistant to President Johnson and a former Secretary of Health and Human Services under President Carter, wrote in The Washington Post last week that in all of our concerns about terrorism, we ''are missing an even more troubling danger, the extraordinary increase in Federal police personnel and power.''

Mr. Speaker, for the FBI to keep a man in prison for 30 years for a crime that they knew he did not commit, that should be criminal in and of itself. I described it at this hearing as saying that the arrogance of the Federal bureaucracy seems to grow with each passing year. The gentleman from Massachusetts (Mr. DELAHUNT) said I was mild in describing things in that way. It seems that we now have a government of, by and for the bureaucrats instead of one that is of, by and for the people.

I salute the gentleman from Indiana (Mr. BURTON) and commend him for continuing to try to call attention to the miscarriage of justice in the Joseph Salvati case, and to say if we keep expanding the Department of Justice and the FBI, then the abuse of the American people is going to continue to grow, and we are going to have much of our freedom taken away from us, and the American people are going to have problems that they never dreamed of. We need to bring these people under some type of control because they are certainly out of control at this time.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

(Mrs. MINK of Hawaii addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

ACHIEVEMENTS OF THE FIRST SESSION OF THE 107TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from New Mexico (Mrs. WILSON) is recognized for 60 minutes as the designee of the majority leader.

Mrs. WILSON. Mr. Speaker, during the next hour, I want to talk about some of the wonderful things that this House has achieved in this first session of the 107th Congress; but in my view, probably one of the most important things we have achieved, we finished today here on the floor of the House, and that is the President's education bill.

Going back almost 2 years ago before the last Presidential election, and before even the primaries were finished, I was looking at the people who were putting themselves forward as potential candidates in the Republican Party, which is my party.

There was a governor from neighboring State of Texas, which being a New Mexican, is sometimes a disqualification in itself, who seemed to be saying some things that I liked to hear. Not only just saying them, but obviously deeply believing them and passionate about them.

George W. Bush was talking about no child should be left behind. There was a commitment that he made in his State of Texas, and it was not just some kind of a campaign slogan, it was something that he passionately believed, that there was a subtle bigotry of low expectations, and that, in itself, condemned children to a life of underachievement. He believed it was possible for a public school system to reform itself and to commit itself to excellence, and that every child is entitled to a great education, and that education is the next civil right.

I listened to him for several months and I decided that I liked this guy, and that I was going to back him as my preferred choice as President of the United States. After he was elected, both in his inaugural address on the steps of the west front of this Capitol and in this body in this room, when he made his first State of the Union speech, he asked us as Members of Congress to join him to ensure that no child is left behind, to reform the Federal laws on education, to make a commitment to reading, not just in the schools where all of us who are middle class have moved to, but to the schools that maybe all of us do not want our children to go to.

I believe that every parent wants a great school in their neighborhood that their kids can walk to. But even more as a community and as a society, we need to have a great school system so that a kid who gets himself up for breakfast and gets his little brother and sister up and makes their lunches and gets them out the door and walks with them to school, those are the kids that this education bill we passed is for. For the kids whose parents are not there and do not care, but that kid who still has a dream, that in America he is part of the American dream.

The bill that we passed today is a landmark piece of legislation, something that required work in both bodies and on both sides of the aisle. It is the most important Federal education bill that we have passed in 20 years. We would not have done it without the leadership of the President of the United States.

Why does it matter? Why should we care so much about education? I represent Albuquerque, New Mexico. A third of our kids in Albuquerque do not graduate from high school. For our parents and certainly for our grandparents, that was probably okay because there were still jobs that somebody could get and be able to support a family that you could do without a high school education. But in the 21st century, those jobs do not exist anymore. What was good enough for our parents and grandparents is not good enough for our children. Every child has to graduate from high school being able to read and write and work together and hold a good job. That is what this bill is about.

The No Child Left Behind Act of 2001 significantly increases Federal aid to education. Last year we had about $18 billion in the budget for Federal aid to education, mostly to schools that serve poor communities and for special ed. The bill that we just passed authorizes $26.5 billion in the next year for Federal aid to education. That is almost a 40 percent increase. In the last 5 years, we have close to doubled Federal aid to education. But this also includes the elements of reform, which I think will help get those dollars to the classroom where they can matter in the lives of children.

This new legislation requires annual testing in reading and mathematics for every child from grades 3–8. Some States, like New Mexico, have already moved toward annual testing and accountability for results. But if we let kids fall through the cracks, if we move them on from one grade to another grade without demanding and giving them an opportunity to master the subject matter in first grade, they are not going to make it in fourth grade.

Before I was elected to Congress, I was the cabinet secretary in the State of New Mexico for children. We had the delinquent children, the abused and neglected children, the children that were mentally ill, early childhood education. We had all of the children that nobody wanted.

When I looked at the kids that we had in our juvenile justice system, on average they were 16 years old. At that point in their lives when they first came to our juvenile prisons, they had, on average, nine prior felonies. It was very rare to have one of those kids who could read at grade level. It was very rare to see a father in their life. Very often there was drug and alcohol abuse in the family.

But the number one indicator that a kid is going to be in trouble as a teenager is their third grade reading score. Education is the way up and out for all kinds of kids. Poor kids, kids that come from broken homes, kids with fathers who are not there or who come home drunk. The public school system and the ability to read is the ticket to a dream. This Federal legislation emphasizes the importance of reading, particularly kindergarten, first, second and third grade. We must make sure

that children are able to read by the third grade.

□ 1615

This bill requires all students to be proficient at reading and math within the next 12 years. We do not just set a lofty goal, we set a goal, we provide resources, we provide the tools to achieve that goal, and then there will be accountability for results.

It also requires that we narrow the gap between the rich kids and the poor kids, between the Anglo kids and the minority kids. The truth is since we started the title I program to help schools that are in neighborhoods that do not have as much money to put in from the outside, we started that Federal program and in some areas, the gap between rich and poor, Anglo and minority, has widened rather than narrowed. The whole purpose of Federal aid to education for poor schools is so we can narrow the gap, not so that it can be widened. We must narrow that gap.

There is $1 billion a year in this bill for the next 5 years to improve reading, three times as much as this year, with a goal of making sure every child can read by the third grade.

This bill also consolidates programs. There are wonderful ideas that legislators and the administration comes up with over the years and often those are put into law or into program documents, and you end up with small pots of money and 20,000 school districts across the country with grant writers and administrators chasing after a little piece of those pots of funds. As a result, we have all of these programs that take so much to administer and compete and award that 65 cents on the dollar even gets to the school district level, let alone down to the classroom.

We needed to consolidate those programs and get the money down to the local level, to give some flexibility to local school districts and principals so that you do not say, well, we have got this pot of money and you can use it for middle school math and science instruction and another pot of money that you can use for software for elementary schools; but what we really need is to send some money back for continuing education in how to teach reading in a particular school. We do not have any money for that even though that is the need. We have got to give some flexibility to move funds around at the local level, because the challenges that we face in Estancia, New Mexico, are not the same challenges we face on Long Island, New York. Let us give some flexibility to local school districts, to parents and teachers and principals; and then let us look at results. Let us let America surprise us by their ingenuity.

It is a wonderful bill. It took a great deal of work and bipartisan work and bicameral work. But we have achieved it. I hope that before Christmas it will be on the desk of the President of the United States and we can begin both to celebrate it and to implement it. But we also have much more work to do.

I want to talk for a little bit about the state of the economy and jobs. In November, consumer confidence fell, plummeted really, for the fifth consecutive month. In June, July, and August when we passed the first stimulus bill, we were all hoping and we thought it was quite likely that the recession that we were on the cusp of would have a soft landing, that if it turned into a recession at all, it would be very shallow and very short. September 11 changed all that. When we saw those planes crash into the towers in New York and we saw the plane crash in Pennsylvania and here in Washington, D.C., we saw and felt a shudder through the American economy. It was not only travel and tourism that were hurt, it was consumer confidence that was hurt. We need to pass another economic stimulus bill. The President called for it in October and the House of Representatives responded.

Our economic stimulus bill in the House is not perfect. There are things about it I did not like as an individual legislator. There is almost no bill here that everybody can say, By gosh, that's something that I can support a hundred percent. There's not a word that I would change. It is not the nature of this body.

But we moved it forward. We moved the process along for a good reason. Since September 11, 700,000 Americans have lost their jobs. We have 700,000 families who are worried about where the next paycheck is coming from. Unemployment has spiked, particularly on the east coast, in the New York and down to the mid-Atlantic region. All of those families are worried about their health insurance. What happens if they do not get another job before that COBRA runs out? What happens if the unemployment benefits run out? What happens if we do not get back to growing jobs in this country? Those families are hurting. We need to help them. We have passed an economic stimulus bill in the House. I think we may end up having to pass another one next week without any additional action because things have not moved forward.

What do we want to see in an economic stimulus bill? Certainly first and foremost, we need to be able to extend health care benefits and unemployment benefits so that people who have lost their jobs due to the slowdown in the economy can make it through. All of us know neighbors who are worried about losing their job sometime this year and all of us are willing to say, ''Look, we're going to help you over the hump. We're going to make sure that this awful time for you is not made worse because you can't feed your family or that you lost your health insurance.'' So we must have health care coverage and unemployment insurance extenders in any economic stimulus bill.

The second thing we are going to need to do is to restore confidence. We are in the Christmas season. About two-thirds of the American economy is consumer spending. There are retail outlets and companies where half of their sales are in the Christmas period. We need to restore confidence in our consumers so that we do not have a further collapse in retail sales. We have got to restore confidence in consumers, and we have to restore confidence in the markets. If you talk to anybody around town about their retirement plans, most Americans now have 401(k)s or IRAs or pension plans. We are now investors in the stock market. One hundred million Americans own stocks, mostly in IRAs and 401(k)s, pension plans through work or Thrift Savings accounts. All of us have seen the value of our retirement savings go way down because of the economic slowdown. We have got to restore confidence in the stock market that our economy is back and turned around. We have to pass an economic stimulus bill that does that.

The third thing our economic stimulus bill has to do is to create capital to create jobs. Most of our jobs created in this country are created by small business. That is where the real job growth is. That means we have to do things like accelerate depreciation. I was a small business owner for 3 or 4 years before I went into State government. One of the things that was amazing to me is that when I did my books at the end of the year on what my profit was and my loss and how much corporate tax I had to pay, if I bought new computers as I did one year for the whole office, the whole company, new computers, upgrade everything, all at one time, at that time I could only say that I spent $10,000 that year on what they call section 179. So even though I had to pay as a small businessperson 20 or $30,000 out of our bank account to buy the things, as far as telling the government what I owed on taxes, I could only say it was $10,000. That did not seem right, that did not seem fair, and it certainly discouraged me the next time from getting $35,000 worth of computers at one time. Certainly one of the things we need to do for small business is to raise those limits so that a small business looking at buying equipment, going and doing some construction, expanding their computer setup, can do so, and that will stimulate our economy.

Mr. Speaker, the gentleman from Illinois (Mr. WELLER) has joined me, who is a member of the Committee on Ways and Means and is someone who has worked very, very hard on economic stimulus and particularly looking at small business and what can we do to get back to growing jobs in this economy.

Mr. WELLER. I want to thank the gentlewoman from New Mexico for yielding and also commend her for her leadership, particularly in technology and research, which is so important to the future of the economy of our country.

Our country has a great challenge before us. Obviously, we are working to win this war against terrorism as a result of the terrorist attack, this horrible attack on our country on September 11; but also a key part of our effort in the war on terrorism is to address the economic impact of the terrorist act on September 11.

President Bush inherited a weakening economy. Economists point out it was in the spring and summer of 2000 that the economy began to turn. When he was sworn in as President in January of this year, the economy was already starting to weaken. Unfortunately, there was a psychological impact of September 11, a terrible day when our Nation was attacked by terrorists on our own soil.

Of course, as a result of that, many things happened. One of those is there was a psychological impact on our economy. Business decision-makers and consumers who had previously made decisions to move forward on investments and purchases stepped back from those investments and decisions to spend money. Of course, now we have seen the result. Thousands if not tens of thousands of residents of the State of Illinois where I live as well as New Mexico and all across our country have lost their jobs as a result of the downturn in our economy. In fact, today there are hundreds of steelworkers in the south suburbs that I represent that are here in town expressing their concern and calling on the Congress and the President to work together to find a way to get this economy moving again.

I want to point out that the House has been doing its job. Seven weeks ago, the House of Representatives passed legislation to revitalize this economy, the Economic Security and Recovery Act, legislation designed to encourage investment by business decision-makers, to create capital for investment as well as to reward investment and the creation of jobs and also to put more money in the pocketbooks of consumers to spend. I would note that some of the key provisions of the legislation that we passed and sent to the Senate obtained strong bipartisan support here in the House. I have been very, very disappointed in the other body and particularly in the leadership of the other body and their failure to move forward on economic security and economic stimulus.

I particularly want to point to one of the provisions in the legislation that the gentlewoman from New Mexico and I have been working together on, as have many other Members of this House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PLATTS). The Chair will remind Members that it is not in order in debate to characterize Senate action or inaction. This prohibition includes debate that specifically urges the Senate to take certain action.

The Chair would ask the gentleman to be conscious of that.

Mr. WELLER. I certainly will, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WELLER. That is, legislation to draw attention to the expensing provision that is in the Economic Security and Recovery Act of 2001. When you think about it, we are looking for ways to encourage investment and the creation of jobs. If we can encourage an employer or a business to invest in a personal computer or hardware, a pickup truck, a car, we have to remember that there are American workers who produce those products. So if we encourage business to buy them, there is a worker who is at the other end where they are being produced who is going to keep their job. We also have to realize that when someone purchases that pickup truck or that car or that other piece of equipment, there is going to be a worker that is going to operate it as well. So really any incentive that is going to attract investment is going to help create jobs.

I would note that the 30 percent expensing provision that is in this legislation which means that a business would buy a personal computer, for example, and they would be able to deduct 30 percent of the purchase price of that asset in the first year. Currently they have to, of course, depreciate a computer over 5 years. This is much more attractive. It will encourage business to purchase hardware.

I would also note, as my colleague from New Mexico pointed out, in the Economic Security and Recovery Act that the House of Representatives passed that we also provided for an increase in expensing for small business, which means that small business would have the opportunity to deduct 100 percent of the purchase of capital assets. Currently it is $24,000. We increase that to $35,000, a significant increase, to help small business, allowing them to deduct more from their taxable income, freeing up capital that they can then turn right around and invest in the creation of jobs.

When it comes to real estate, businesses are out there, they are working in real estate that employs the building trades, carpenters and plasterers and others. When they make improvements in their buildings, we call that buildout or tenant improvements, we change the depreciation schedule for that in this legislation as well. Currently it is 39 years, a ridiculous period of time. We reduce it to 15 years for inside buildout of a business.

The bottom line is we have accelerated cost recovery and we have expensing as well as depreciation reform in this legislation, 30 percent expensing. We increase the small business allowance up to $35,000, and we reform how we depreciate inside improvements in buildings, providing jobs. That is the bottom line.

I would particularly note from the technology sector's perspective that in our legislation that the House passed 6 weeks ago, we also recognize there are companies losing money this year. These companies losing money are looking for capital so they can reinvest and, of course, create jobs and preserve the jobs of their workers today. Under our legislation, we allow a company that is losing money this year to carry back for 5 years. What that means is they can take this year's loss and credit against a previous profitable year sometime in the last 5 years, essentially get a tax refund, and they can use that money to reinvest in the creation of jobs. The accelerated cost recovery, the expensing and depreciation reform, helping companies that are losing money this year, is going to create jobs.

I would also note in the Economic Security and Recovery Act that we also help the middle class. We have to remember, the vast majority of Americans are middle class.

□ 1630

In the legislation we passed out of the House, the middle class tax rate is the 28 percent tax rate. That affects folks who make $60,000 a year. That is average middle class in the district that I represent in the south suburbs and South Side of Chicago. We lower their tax rate, which is currently 28 percent, effective immediately of January of 2002 we lower it to 25 percent that is going to lower taxes, giving more spending money to middle-class taxpayers.

We also want to help low income and working families too, those who probably never pay income taxes today and may not have benefitted directly and received a tax rebate this year from the President's tax cut that we all worked together to pass earlier this year. I would note that 24 million Americans will receive a $300 dollar stimulus payment under the legislation we passed, extra spending money. I am one of those who believes that low income families when they receive that stimulus payment check, they are going to tax it and they are going to spend it. That is going to help the economy, creating jobs and demand for goods and services.

Now, one thing I noted as we discussed this economy, unfortunately, hundreds of thousands of Americans have lost their jobs, tens of thousands in the Chicago area that I represent. I would note that in the Economic Security and Recovery Act, legislation we passed 6 weeks ago in the House, that we provide help for those who are unemployed, and we provide help for those who may have lost their health insurance coverage. In fact, we provide $12 billion in assistance for the unemployment benefits, as well as covering the cost of health care. So we put together a pretty good package.

I would note the Economic Security and Recovery Act, legislation that passed this House of Representatives with a bipartisan support, was passed by the House of Representatives 6

weeks ago. When you think about it, when Americans are in jeopardy of losing their jobs, I am one who believes that Congress needs to act very, very quickly and put on President Bush's desk legislation to get this economy moving again.

One of the most important reasons is not only to provide incentives to invest and give consumers more money to spend, but also to give the psychological confidence to business investors and consumers that it is okay to invest again, that it is okay to spend money on their family's needs, and that their job is not going to be in jeopardy.

So my hope is we can work things out with the Senate quickly and get on President Bush's desk as soon as possible legislation to revitalize and stimulate this economy. The bottom line is we want to provide economic security for all Americans. We want to protect those who have jobs, and those who recently lost their jobs, we want to give them the opportunity to go back to work and provide a safety net while they are out of work.

Mrs. WILSON. Mr. Speaker, I thank the gentleman from Illinois, particularly for his expertise on what we need to do with respect to the economy.

There are two other areas of the economy where the House has taken very important action and we need to get a bill to the President's desk without any further delay. One is energy, and the other is Trade Promotion Authority, so that we can promote international trade. I would like to maybe take those in reverse order. The one we passed most recently was the Bipartisan Trade Promotion Authority Act which we passed last week.

Now, international trade is not something that people usually get excited about, unless it is your job that depends upon being able to sell American products abroad.

There are about 130 trade agreements that exist in the world internationally. America is party to only three of them. What that really means is that when we try to sell our products to Latin America or Asia or Europe, our companies are more heavily taxed than our competitors in Canada or Europe.

I have a little company in my district called SEMCO, and they make rock crushers. These are big barrels and drums that crush rock for the mining industry, to be able to get the minerals out of rock. It is not a very high-tech business. It is a family firm.

But I was talking last week to the owner, and he said, you know, they do not even bother to bid on jobs in Chile any more, because their competitors are Canadian and European countries, and Chile has a free trade agreement with them, and there is only a 2 percent duty on a crusher that is made in Europe or in Canada, a 2 percent tax if a Chilean mining company imports a piece of equipment. But for him, it is about 17 percent.

You cannot under sell somebody by 15 percent, 15 cents on the dollar, so he does not even bother bidding on those jobs any more. He employs maybe 30, 35, 40 people in his operation in Albuquerque, New Mexico. I would like to be able to see him building more rock crushers and selling them to mining operations, whether they are in Australia or Canada or Latin America or Chile.

But unless we give the President the authority to negotiate tough trade agreements that reduce the tariffs on American goods abroad, we do not have a fair shot, and neither does he. To me, that is part of what it will take to get our economy back to growing jobs, and that is what this is all about.

America now is disadvantaged. On any kind of fair playing field, American companies and American workers can beat the best. We are the most productive workers in the world. We have the best technology, we have well-trained workers, and we can compete head-to-head and we can win, but we need a fair chance, and right now we do not have the fair chance.

Mr. WELLER. If the gentlewoman will yield, I absolutely agree with you. If you think about it, the globe's population, billions of people, 96 percent of the consumers on the Earth today live outside the boarders of the United States. So if we want to increase the opportunity to find new markets for American farm products, for technology, for manufactured goods, for entertainment, we have to increase our access to international markets. Ninety six percent of the globe's population.

Trade Promotion Authority, it is kind of a funny name, but the bottom line is all it means is that we give President Bush the full negotiating power he needs to break down trade barriers. Without the full negotiating power, our trading partners and competitors and those who are trying to open up markets into their markets are not going to take us seriously, unless the Congress gives President Bush the full negotiating power that he needs.

I was so very, very pleased that we passed out of the House this past week with bipartisan support legislation giving President Bush what he needs. I think it is a shame there is almost 130 bilateral trade agreements, and bilateral means a trade agreement between two different countries; but out of 130 bilateral trade agreements, only about three involve the United States.

Something is wrong when the globe's greatest economy, our country, is unable to negotiate the kind of trade agreements we need to break down barriers and reduce tariff barriers and other barriers that stand in the way of markets for American manufactured goods, for farm products, for technology. That is why it is so very, very important to give the President what he needs, and that is the full negotiating power that Trade Promotion Authority gives to the President.

Mrs. WILSON. Our American farmers feed the world. In my State of New Mexico, most folks would not suspect this, but New Mexico is the tenth largest dairy producing State in the country. It is a very fast growing dairy industry. Of course, our cattle industry in the West has always been really strong. Our New Mexico cattleman, I was talking to a rancher, and he said we really want free trade, because most people outside the United States do not eat as much beef as people inside, and we want to introduce them to the wonders of beef.

There are things that we can do to promote trade, but we have to give trade authority to do it. As you can see by this chart here, the House has passed the economic stimulus bill. We did that on October 24. We have passed now bipartisan trade authority, which would give the President the power to promote international trade and promote international business and get business for American companies abroad.

We also passed something way back actually the second of August, before the August break, the Energy Security Act. When we talk about jobs, we have lost 700,000 jobs in this country since the 11th of September. The estimates are that this energy bill, and this kind of just surprised me when I saw these two numbers, went back and looked at my notes from August, the estimate is it would create 700,000 jobs in domestic energy suppliers.

We are more dependent on foreign oil today than we were at the height of the energy crisis. Fifty-seven percent of oil is imported for America, mostly from the Middle East, a very volatile region of the world. Most folks do not know, but the number seven supplier of oil to the United States and the fastest growing supplier is Saddam Hussein's Iraq.

We need a balanced long-term energy policy that promotes both conservation and increases in production. We need a very diverse supply of energy. People get complacent. We all have gotten complacent a little bit here. The price of gasoline has gone done, the price of natural gas has gone down we have had a pretty mild winter so far, and maybe there is a sense of urgency that has left us. But the reality is we need an energy policy, and we need to reduce our reliance on oil coming from the Middle East. We should not be over a barrel begging Saddam Hussein to keep the oil spigot open. We need to be more independent.

The House passed by a very broad bipartisan vote the Energy Security Act on August 2. That should have been on the President's desk months ago. We need the first energy policy that we will have had in 20 years, and the House has passed it, and I would like to see the President be able to sign it.

I yield to my colleague from Illinois.

Mr. WELLER. I thank the gentlewoman for yielding. On energy, of course, the gentlewoman has been one of the leaders, particularly in research and development of new sources of energy and new sources of conservation,

as well as helping our country be more independent of foreign sources of energy.

I remember one of the questions that I was asked shortly after the tragedy of the terrorist attack on America. Every day I was in my district I would visit a school and I would talk with students. One of the high school students at Wilmington High School, a high school junior, asked me a very good question. He says, ''You know, Congressman, Americans have very short attention spans. Will we keep our attention and will we eventually lose interest in what occurred to our Nation on September 11?''

I said, ''You know, young man, you have a very good question, and that is, will America appreciate what complacency has cost us?''

Clearly what we were reminded on September 11 was the consequences, number one, of thinking it will never occur here, but also the consequences of being dependent on others in unstable areas of the world for sources of energy.

To me, I think there is something wrong when the policy of this country over the past decade has been to allow our Nation to be dependent on a majority of the oil that we use to power or our economy comes from outside the borders of the United States. Clearly, we in the Congress, I believe, have an obligation to improve the security of our country by reducing our dependence on imported energy, particularly oil.

I was proud to say that, earlier this year, and all the way back in July, now, think about that, in July we passed the Energy Security Act, legislation designed to make our country more energy independent, to emphasize conservation, to emphasize renewable sources of energy, and also to promote domestic sources of energy.

Well, think about it. How many months have passed since July? July, August, September, October, November, December. Six months have passed since we passed legislation which would provide for an opportunity to make our Nation more energy independent. Unfortunately, while the House has acted, we are still waiting for Congress to be able to send to the President legislation that brings about energy security.

I would note, not only do we provide for an opportunity to reduce our dependence on imported oil from the Mideast, but also we provide for an opportunity for investment in new technology, which will promote energy conservation.

One of the provisions in the legislation that we passed provides incentives for homeowners to make their homes more energy efficient, where they can receive up to a $2,000 tax credit, up to 20 percent of the first $10,000 they would spend if they better insulate their home or put in better, more energy efficient windows and more energy efficient heating or cooling for the house. And also for a home builder. A home builder who builds a new building, whether a condo or a stand-alone house, would also be able to receive that tax credit.

I was talking to a home builder in the area that I represent in the South Suburbs, a gentleman who has built thousands of homes in the Mokena-Frankfort-New Lennox, the Lincoln Way area we call it, just east of Joliet. He said in the last 2 years he has built about 1,000 homes, but only about a dozen of his customers, those who purchased new houses, brand new houses from this home builder, said they wanted an energy efficient house. People were more willing to invest a little extra money in the kitchen or bathroom, something they can see, than into making their house more energy efficient.

But he also said when there is an incentive to help recover the cost of making that investment, those consumers are much more inclined to invest in energy efficient improvements to their existing house or to purchase a home which has more energy efficient technology in place.

That is one of the most basic centerpieces of the legislation we passed. While the House has done its job on energy, while the House has done its job on trade opportunities, while the House has done its job on revitalizing this economy, we are still waiting for the other body.

My hope is we can work together soon, within the next few days, and put together a bipartisan agreement. We all know it is in the best interests of our Nation to get this economy moving again, because far too many Americans have lost their jobs. 700,000 Americans are now unemployed, and we have yet to put on the President's desk legislation to help revitalize this economy. Something is wrong.

□ 1645

President Bush has asked us to send him a stimulus package, what we call an economic security package, to help create new jobs, protect jobs, give those that are currently out of work an opportunity to go back to work. I think it is wrong that this Congress has not completed its work, but I am proud to say the House has been doing its job. In July we passed energy security. Six, 7 weeks ago, in early November, we passed economic security. This past week we provided for greater trade opportunity. We need to work together, and I hope the other body and the House can find a way to get this job done in the next few days.

Mrs. WILSON. Mr. Speaker, I thank the gentleman from Illinois. When I started out, I talked about how we had worked together to finish the education reform bill and what a tremendous achievement that is and how it will make a wonderful difference for our communities and our families and our children over the next couple of decades. It is a landmark piece of legislation. It showed that if we focus on something, with the leadership of the President and the determination of the House, that we can get things done. But there are things on the economy and jobs that we also need to get done.

We have worked cooperatively with the President and with the entire Congress to get things done with respect to the war on terrorism, and that war is going very well, although we always must expect that there will be bad days and there will be good days. But there is something else we need to focus on, and it cannot be put to the back burner. It has to be put front and center, and that is growing jobs.

The House has passed the economic stimulus bill. We passed it on October 24. We may actually pass another economic stimulus bill. It is almost as if we are pleading to get something done so we can get it to the President and get back to growing jobs. We have passed Bipartisan Trade Promotion Authority so that we can export more and grow our businesses at home so we can sell products abroad. We passed 6 months ago the Energy Security Act, which also would create jobs, probably 700,000 jobs in the energy sector. We have done things with farm security, and things are really hurting in the agriculture industry, and the House has passed a farm bill. Even back in June, in mid-June we passed an Invest for Fee Relief Act.

Most folks do not even know it, but when one trades a stock in an IRA or in a 401(k) or just in a stock account that one might have with T. Rowe Price or whomever, there is a few pennies or actually less than a penny on each transaction that goes to pay for the Securities and Exchange Commission. That rate was set when we were not doing so much stock trading and there were, instead of 100 million investors in America trading on line, there were really only a little more than a million, maybe 10 million investors and they were mostly large stockbrokers. We do not need that much money coming from all of these little trades. What this bill does, it just says, let us just have the amount of money taken off the trade that one needs to fund the SEC. That is what it was intended to do.

Six months ago we passed that legislation. It is a simple little bill. But if we watch the values of our stock portfolio go down, the IRA or 401(k), it kind of hurts that we are not acting faster and it feels as though we are throwing things over the net, and there is nobody there.

I yield to the gentleman from Illinois before we wrap up this hour.

Mr. WELLER. Mr. Speaker, I want to thank the gentlewoman from New Mexico for her leadership and setting aside this hour to talk about what the House has done. We have been hard at work over the last 12 months working to bring about change, but also working to bring about security to the average American, for our communities and for

our country. We have supported the President in the war against terrorism, giving him the full war powers that he has asked for. We provided for $40 billion in emergency funds and we have helped our aviation sector and stabilized that after it was literally shut down for days, which cost the aviation sector billions of dollars.

But we have also worked to respond to other situations that have occurred since the terrorist attack on September 11. The bottom line is, we have to get this economy moving again. That is why the points that the gentlewoman has made are so important, when she referred to in July when the House passed energy independence and energy security legislation to reduce our dependence on imported energy.

It was in October when the House passed and sent to the other body legislation which would stimulate this economy, reward investment and the creation of jobs, help displaced workers with unemployment benefits as well as health care benefits, give extra spending money to consumers. It was in November when the House passed the Farm Security Act, legislation to help our farm economy. Again, the House has been doing its job.

It was just this past week that the House moved in a bipartisan way to give the President the full negotiating power he needs to reduce trade and tariff barriers that stand in the way of American manufactured goods as well as farm products that we produce here on our soils. Mr. Speaker, 96 percent of the Earth's population lives outside of our borders. There is a tremendous amount of market, a tremendous amount of opportunity to move goods from the United States out of our work places and manufacturing places and our farms on to the tables of those who are hungry overseas, not only for our food, but for our goods and services.

The bottom line is, we have worked hard in this House. We have been on schedule. Energy in the summer, passed energy security legislation, we have given the President full trade negotiating powers, we have worked to stimulate this economy. Unfortunately, it takes 2 Houses to get the job done. My hope is that in the next few days that the other body will come together with the House and that we can work together to stimulate the economy and to help bring greater security to our country.

I want to thank the gentlewoman for her leadership and this Special Order.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PLATTS). The Chair is required under the House rules to remind Members that it is not in order to characterize action or inaction by the other Chamber, and would ask Members to comply with that rule.

Mrs. WILSON. Mr. Speaker, I thank the gentleman from Illinois for coming down here and joining me this evening. I also wanted to commend him for his leadership in the Committee on Ways and Means, not only on issues of economic stimulus and the committee and the gentleman have done a grade job, but on trade promotion, and particularly the things that affect our high-tech economy where the good-paying jobs are and we want those good paying jobs to be in America, and I want to thank the gentleman for all the hard work that he has done this year.

Today, the Congress had a tremendous success. We passed an education bill which is now on its way to the President that will implement his idea and his passion, that no child will be left behind in America. We have given the President legislation and money to fight the war on terrorism. The people who attacked America on September 11 underestimated the resolve of this Congress, this President, and this country. We will find those responsible, we will root them out, and we will destroy them. We are united in that resolve.

The House of Representatives has passed numerous measures to stimulate this economy. We have passed an energy bill that would give us 700,000 new jobs. We have passed an economic stimulus bill that would reduce the tax rates on middle-class Americans, put money in consumer pockets, and let small businesses invest and create jobs and restore confidence to our capital markets. We need to move forward and grow jobs in this country. Mr. Speaker, 700,000 Americans lost their jobs since September 11. We are in a terrorist-induced recession. Now is the time to act and get back to growing jobs.

IMMIGRATION REFORM AND CONTROL AND THE SECURITY OF OUR BORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, although I can certainly agree with many of the comments of the previous speakers with regard to what this Congress has accomplished to date, there is an issue, of course, that I must bring to the attention of the Congress, of my colleagues, and the Speaker, that has not been dealt with. It is almost incredible to stand here and say this in light of everything that has happened since September 11. We have, indeed, prosecuted a war against the perpetrators of the September 11 tragedy, and we have prosecuted it successfully. I am immensely grateful to the President of the United States for his efforts to bring these people to justice. In many ways, I am pleased with what the Congress of the United States has done in efforts, as has been stated earlier, at least on the House side, in terms of enhancing the economic viability of the Nation, passing a stimulus package, and the rest.

However, while we focus on issues like those that have been described here, having just passed a massive education bill earlier this afternoon, we have abandoned, we have refused to deal with one of the most important, one of the most significant and uniquely Federal responsibilities given to us under the Constitution, and that is the issue of immigration control, immigration reform, and the security of our borders.

Amazingly, I say, we have refused to do that. Here we are approaching the end of this particular session of Congress. I would have hoped that all of our colleagues could have seen what most Americans see. Poll after poll after poll by Americans of every stripe, of every political philosophy, of every ethnic background, every single poll tells us something we evidently do not understand in this Congress, and that is the American people want immigration reform. They want us to do everything we can to gain control of our borders, to make them more secure, so that while we are bombing the people, al Qaeda and others responsible for the terrorist acts of September 11, while we are bombing them in Afghanistan, the people of the United States want to know that the Government of the United States is doing everything it can to protect them from more of these folks coming across these borders with the intent to do harm. Yet nothing has been done. Nothing.

We have passed stimulus packages, we have passed education reform, we have done a number of things, again, that many people can be quite proud of; but amazingly, we have refused to deal with this issue.

Mr. Speaker, I used to stand up here on the floor of the House and talk about the need for immigration reform at a point in time when there were relatively few Members of this body who were interested in doing that. I recognize that it was not a popular issue to address. Many Members on both sides have very deep-seated feelings about this issue. Some of them revolve around the political imperatives that they face in their own districts, the recognition that to talk about immigration reform always puts one into the position of being attacked for a variety of reasons, all of them unrelated to the real issue of immigration reform. But I felt it was necessary to do so. But I also understood entirely the political dynamics of this body. I am a political person; I do understand what motivates individuals in terms of their voting record.

I recognize fully well that it would be difficult to ever move this issue forward in this session, the next session, or the one after that. That was several months ago that I had that impression and knew that I was fighting an uphill battle.

□ 1700

I used to talk about the importance of gaining control of our borders and the importance of security, and I would reference the fact that we have had several instances of terrorists doing

things in the United States, certainly not to the extent in terms of the damage caused by the September 11 events, but we have had similar events. We have had all kinds of warning signs that something like September 11 was coming.

In the spring of 1993, Mr. Speaker, a Middle East terrorist named Mohammad Salameh struck the first blow at the World Trade Center.

He, if Members will recall, detonated a bomb in the garage. It killed eight and it wounded many. The mastermind of the plot was a notorious Egyptian sheikh named Omar Abdul Rahman. The sheikh had been behind the assassination attempt or the assassination of Egyptian President Anwar Sadat, had fled his own country, and was on the State Department's list of known terrorists.

However, recognizing his background, knowing who he was and what he was responsible for and what he wanted to do to us, all he had to do was to walk into an American embassy in Khartoum, claim refugee status because he had been driven out of Egypt for the murder of the President, and get it, get refugee status, and come to the United States of America, come specifically to New Jersey and begin recruiting terrorists, which he did, begin spouting his hatred of the United States, of this great satan, in the mosque in New Jersey; recruiting people into his organization, one of them being Mr. Salameh, the perpetrator of the crime in the World Trade Center.

That did not warn us? That did not tell us something about the nature of our immigration system, about the nature of our visa process, about our need to actually control the flow? That did not tell us something, that a man like this sheikh could get into this country by simply claiming refugee status, and then we, of course, open the door wide?

We now hand out refugee status like it was candy. Refugee status used to mean something. People used to have to prove beyond a reasonable doubt that their lives were in danger in the country they came from for political reasons, and that they were not, at the same time, a threat to the United States of America. It means nothing today. We hand it out like candy.

In fact, approximately 93 percent of the people who come to the United States who claim refugee status may not obtain it originally, but they simply walk away after they claim it, because at that time when you claim refugee status, you can stay while a process is under way to find out whether or not you get it, even though in New York City alone, the port of New York, at JFK, only a few thousand will be granted refugee status originally, but all the rest who claim it simply walk out the door.

They become, essentially, refugees in the United States because no one ever goes after them; no one has the slightest idea who or where they are. When one goes to the INS and asks them, where are the people who have come here as refugees, but you have denied refugee status to them, they do what I call this logo, and this should be the logo of the INS. It is simply this: a person standing there shrugging his shoulders, hands out, saying essentially, ''I don't know.''

For almost everything we ask the INS about in these kinds of situations, that is the response we get: ''I don't know; cannot tell you; I am not sure; I do not know; we have no figures on that; we do not keep records on that.'' That is the most constant refrain we get.

So in the spring of 1993, again, it should have told us something; but amazingly, it evidently did not, not enough to get this body and the administration to move in the area of border security.

Why? Because there is a fear of doing so. There is a fear of alienating a certain segment of the population in the United States, newly arrived immigrants, immigrant families, whatever; maybe the fear of alienating other nations, other countries, to tell them to try and please help us gain control of our borders.

Whatever it is, and there are plenty of reasons why we have refused to move forward, we did not. We did nothing.

In 1993, another asylum seeker entered the United States. His name was Mir Aimal Kansi, K-A-N-S-I. Mr. Kansi, as Members might recall, later shot and killed six people as they waited in their cars outside the CIA offices in McLean, Virginia. He fled back to Pakistan, probably with the aid of the Pakistani Government, and has never been seen since.

Time and time again, we have been shown that we are vulnerable; that people coming into the United States, if we do not be careful, if we do not clear them, if we do not know for sure who they are and keep track of them when they are here, if we do not do that, we are putting ourselves in jeopardy.

We had all of these warning signs. There were many more, many more times when people were apprehended for totally separate events. There was a guy caught trying to come across to the United States, come into the United States through Canada with all the bomb-making equipment and that sort of thing; and just by happenstance, totally serendipitously, it turned out he was prevented from coming in. But we know, actually now we know that thousands of people are here in the United States who we suspect now of coming in here with devious intents.

Now, when I talk about these people, I am not just talking about the people who are here illegally; they just simply come across the borders of the United States, north, south, east, and west, and are here illegally pursuing their lifestyle, attempting to achieve a better life.

Everybody knows a story of someone who has a family member or something who has come here, even illegally, with the intent of essentially just making a better life for themselves and not with the intent of doing harm to the United States. But I am talking about a lot of other people who have come here for other reasons. We know they are here, and we are not sure where. We are rounding people up, we are detaining them and trying to go through now and trying to find them.

Just recently, we have indicted someone who we found was a co-conspirator or the allegation is that he is a co-conspirator with bin Laden and al Qaeda. Guess what? Guess what they got him on? Violation of his immigration status, violation of his visa.

Every single one of the people on the planes that were here in the United States on September 11, the 19 people who in fact perpetrated the crime, all of them were here on some sort of visa status. Most of them had, as I understand it, violated their visa status in some way or another and could have been thrown out before September 11, had we paid the slightest bit of attention to the people who come in here and why they come and where they come from.

But this was not the modus operandi of the INS. The focus of the INS at the time was to say that its real purpose had little if anything to do with the enforcement of our immigration laws, but it had everything to do with trying to make sure immigrants to the United States got services, benefits, as one of the individuals from INS told a radio audience in Denver when I was home not too long ago.

She said, yes, we have a responsibility to go out there and look. We do not do this rounding up of people anymore, and going to worksites and any of that stuff. We find illegal aliens, and we try to explain to them they are here illegally, and then how they can get benefits. This is what she considered to be the job of the INS.

We had great hopes that with the change of administration from the Clinton administration to the Bush administration there would also be a change in policy with regard to immigration; that we would be able to begin to control our own borders. A new person was put in place, Mr. Ziglar, who was appointed to head the INS. But again, I must say, Mr. Speaker, we have been disappointed, disappointed with the new director and with his lack of enthusiasm for the enforcement side of his job.

As it turns out, Mr. Ziglar has an extensive background in the area of immigration law because evidently, according to his own testimony in the other body, he had been a staffer for a member over there, Mr. Kennedy, and actually helped write some of the legislation that we are now trying to deal with in terms of immigration reform, legislation that created so many loopholes, ultimately, that even Mr. Ziglar

now says hampers their ability, the INS's ability, to actually get something done. He was actually a staff member of the committee, he told the committee he was testifying in front of the other day.

So it is apparent that we have someone now running that agency who has no difference in terms of philosophy or what he believes the direction of the agency should be, no difference from any of his predecessors. He thinks of the INS as a great social service agency whose duty and responsibility is to get as many people into the country as possible and to ''get them benefits as quickly as possible once they get here.''

Interestingly, one of the other pieces of legislation, major pieces of legislation that was passed by this body, by this House not too long ago, just yesterday, was the so-called voter registration reform bill.

After all of the problems we saw with regard to voting and the voting machines and the chads and all the rest of that stuff, there was a great clamour for some sort of reform in the process. So we are going to spend millions of dollars to help communities buy new machines and that sort of thing.

Fascinatingly, fascinatingly, when I went to the author of the legislation and asked if there was anything in there to prevent people who are here illegally, people who are not citizens of the United States, if there was anything in the bill to prevent them from voting, he said they really could not get that through, and that he was hoping that the other body would in fact do that; that we could somehow, somewhere, add to the bill the requirement that one be a citizen to vote, ''But we were fearful that that cannot be fixed.''

Now, Mr. Speaker, I ask Members, am I the only one here, and my colleague, the gentleman from Ohio (Mr. TRAFICANT) often says, beam me up, beam me up, Mr. Speaker, because he cannot believe what is going on around here. I would have to add my voice to his. Beam me up, also.

Is it really true that this body cannot produce a piece of legislation that says one has to be a citizen in order to be able to vote? Much too controversial. The INS does not support it; the administration probably does not support it.

Mr. Speaker, we have not changed our attitudes, even though there are over 3,000 dead in New York, even though a plane crashes into the Pentagon just a few miles from where we stand tonight, and even though the perpetrators were all themselves noncitizens of the United States; even though we know that time and time again people have come across our borders with the intent to do us harm and have carried out many actions; and even though we know that we cannot pass anything in this body that even remotely reflects our concern for the security of our border.

Beam me up. Beam me up, Mr. Speaker. It is absolutely beyond my ability to understand why we are so fearful, why it has taken us so long, why we have yet to deal with this issue, and why there are still people who, although they will not say as much, they will not be quite as open, quite as vociferous, quite as demanding and visible today as they were prior to the September 11 about their desire to see open borders, people who still have a desire to provide amnesty for all the people who are here illegally.

Although we do not get them saying that so often, we know that they are really still in control.

□ 1715

I go back to Mr. Ziglar's testimony just the other day in front of the Senate committee. This is the INS commissioner, John Ziglar. When he fielded a question asking whether the administration is still considering an amnesty for Mexicans and why, if the INS needs more money, does not Congress pass 245(i) extension?

Let me explain 245(i). This is simply another bureaucratic term for the process of amnesty. That is all, providing amnesty for people who are here illegally. This is a big issue in the Congress. We cannot do anything about border security, but they are still hoping that somehow, someway, we are going to be able to get an extension of 245(i) to provide amnesty to millions of people here illegally, to give them a reward for breaking the law.

They are still trying to figure it out. They are still determining whether or not they can put it on to an appropriations bill, whether or not they can hide it in one of the bills we are going to be dealing with here next week, one of the three, two or three final appropriation bills we have in front of us, because if they can stick it in a huge package of legislation, it will be less likely for us to be able to defeat it, those of us who are opposed to it, and it will be much easier for people to vote for it because people will say I had to vote for the defense appropriation, did I not. So they are trying to figure out ways to do that.

As we stand here tonight, they are trying to figure that out. They are not dealing with the issue of border security itself, amazing again, incredible, but true, but here is the commissioner of the INS, appointed by this administration. Remember, this is not a Clinton appointee. When he was asked about this, he responded regularization, this is a euphemism, regularization, this is a euphemism for amnesty, regularization has taken a back seat, but he said the President has not abandoned it, it is just going to be on a slower track until the climate dies down. Until the climate dies down, until we no longer have our sensitivity as acutely honed as we do today to the problems with illegal immigration into the country. When it is quieter, they will sneak it by us, that is what he is saying. This is the new commissioner of the INS. Someone ought to be beamed up and he is one.

We have over 300,000 people, Mr. Speaker, approximately 318,000 that we can identify, 318,000 people who have been ordered to be deported from the United States over the last several years. We have about 100,000 go through this process every year, and some of them are actually deported, but 300,000 of them walk away. They simply walked out of the courtroom and into American society.

Please understand, Mr. Speaker, these are people who did not simply overstay their visas. These people oftentimes have committed crimes against the United States. That is how they got caught. No one gets caught for simply overstaying their visa. No one gets caught for not having a visa. So no one should be surprised that no one goes after visa violators. When we ask the INS, how many people violate their visas every year, visa status? They go into their logo stance, I do not know, got me, probably a lot, we do not know, we do not keep track of them.

Well, these 318,000 that we have found to be out there and only, by the way, after we pressed the INS for quite some time, did they release this information, when we brought every time we could possibly make the point, I would try, others would try to use this as an example of the problem, that 300,000 people were out there already, walked away and they had been ordered deported. No one had the slightest idea where they were, what they were doing.

The other day the INS finally decided they would, in fact, allow other agencies access to the names, that they would put them into the crime database. So that now if a policeman in Jefferson County, sheriff in Jefferson County, Colorado, just happens to pull somebody over for drunken driving or running a red light or whatever and enters their name into the database in the computer, it may come up and say this guy, this person is here illegally, was ordered deported.

That is a good step. I am very happy the INS did this, of course, do not get me wrong. This is what they considered to be, however, a major reform effort, putting the names into the database. I agree they should do that, do not get me wrong. The question now becomes one of what they will do once in a blue moon when somebody does, in fact, get arrested and are found to have been ordered deported, what will the INS do?

Will they do what they have done up to this point in time when they are called by local officials who say we have got a bunch of people here we just rounded up, they are all here illegally, we just stopped a car on the road because it did not have any taillights, any headlights, broken windshields, and we found out there were six people hidden in the trunk, there were was a van with 19 in there and they are all here illegally, and what will the INS tell them? I do not know what to do, let them go. Hey, what the heck. We have not got time to come out there. They are just here illegally.

Do my colleagues know what a previous INS assistant director said when he was speaking to, just a short time ago, just last year I think it was, speaking to a group of people who were here illegally? They were probably giving them a party, for all I know, probably like a cocktail party thrown by illegal aliens for the INS. It would not surprise me. It certainly should because I guarantee my colleagues they have nothing to worry about and they do owe a great deal to the INS, and the INS, this person, I wish I had the name in front of me, I have used it before on the floor, told the assembled group of illegals that being here illegally was not against the law. Now, I do not know if the people to whom he was speaking understood the English language well enough to understand the perversity of that statement. Yeah, he said being here illegally is not against the law.

So this is what we have to deal with. Should we be surprised then that it is so difficult to get the INS to change their philosophy because we have got the same people, essentially the same ideas about who we are and what we are.

I assure you, Mr. Speaker, that they will come in and say when we have asked them, why do not you try to do something about that? They will say, well, it is the resources. It is the fact that Congress has passed laws tying our hands. That is absolutely true. Plenty of dumb laws have been passed by the Congress. Plenty.

Again, I do not know where to start. There are so many goofball things we have done here to try and encourage massive immigration into the country of illegals. But combine that stupid activity and the stupid actions of Congress over the past 10 years with the incompetence and the lack of willingness to enforce immigration laws that is inbred into the INS, and it is no wonder we have a disaster of the nature that we have faced and that we are still facing, we have faced on the 11th and we are still facing.

Is there any Member of this body, is there anyone in the United States of America who does not think that there are still people either in the United States or trying to get into the United States but with the purpose of continuing the jihad against us? Is there a human being here who thinks that? Does anybody believe that even if we bomb Afghanistan into dust that our worries are over within terms of terrorist activity in the United States of America? Does anybody believe that?

I cannot imagine there is anyone, certainly in this body, and I cannot imagine that there is a thinking person in the United States that would agree that all we have to do is destroy the al Qaeda network in Afghanistan and we are all going to be okay.

So then what is it that we can and should be doing to ensure our safety in this Nation besides bombing Afghanistan? We should, of course, be defending our own borders. We should, of course, be using the National Guard to defend the borders and every State that is adjacent to the border of Canada and/or Mexico. We should be using technology to help stop people from coming.

Now we will never be perfect. We cannot be perfect. I recognize that fully well. We will work and work as hard as we can to make sure our borders are not porous and we will never be able to make it perfect. But on the other hand, does that mean that we do nothing because we are afraid of the political ramifications of saying we are going to clamp down on immigration. We are afraid that the Hispanic community in the United States would vote against us.

But I will say again, Mr. Speaker, the fascinating thing about this topic is that we can see by poll after poll after poll that those Hispanic Americans that have been here for generations, some of them a lot longer than my family has been in the United States, legal Americans, people who have been here, people who have recently immigrated to the United States legally and are of Hispanic descent, by large majorities they agree with us that the border should be enforced, the border immigration laws should be enforced.

Seventy-three percent in a recent poll said, this is Hispanic Americans, said that employer sanctions ought to be enforced for people who hire illegal immigrants. It is fallacious to think that the entire community of Hispanics living in this country today would automatically in a knee jerk fashion vote out anybody who dared suggest that we should actually try to maintain integrity of our own borders.

I will say, I would say, that regardless if I faced that kind of political problem which I may very well do. I mean, I get plenty of mail, I assure you, that suggests that my political days are numbered because of the position I have taken vis-a-vis immigration. So what? So what?

Is it not our responsibility in this body to provide for the protection of the life and property of the people in the United States? Is not that primary? Is not that the most important thing we are here for? Is not it even more important than the education bill? Is not it even more important than the economic stimulus package? To protect the life, the property of the people of the United States. How do we do that if we ignore the fact that our borders are porous, that people can come into this country at will and do harm?

How do we ignore this? Yet, we have.

We are coming to the end of this session. We have ignored the most sacred responsibility we have as Members of this body. We have done so because of our fear, our fear that our actions would be either misinterpreted or for whatever reason, we will suffer political consequences.

We have refused to do so because Members on the other side of the aisle recognize that massive immigration into this country, both legal and illegal, eventually turns into votes for them. That is what they believe. It may be true. It does not matter. It is more important to keep this Nation safe than to worry about our political future. Because, frankly, what does it matter what our political futures are if our Nation is being destroyed around us. And there are many ways that that destruction can come.

It can come as a result of the bombs that people place in buildings, or the planes they turn into bombs and drive into buildings. And it can come from the disintegration from our own society that can happen as a result of massive immigration. Forty-five million Americans today do not speak English, cannot speak English. Forty-five million Americans cannot communicate with their fellow Americans in the language of this country. Forty-five million Americans, therefore, are inhibited from achieving full integration into this society. Many of them, of course, choose not to integrate.

□ 1730

And many of them have no reason, they think, to do so, because essentially their culture, their ideas, their language came with them and now everybody in their community speaks a language other than English and so it is quite comfortable.

And our schools, our schools continue to push bilingual education. Even today, when we passed this massive education reform bill, and this is one more thing to go on that list of incredible but true, because if we said to everyone in this Nation, if we asked everyone the following question, do you believe that a parent should have the right to determine whether or not their child should be placed into a bilingual education program, what do you think the response would be? I wonder, Mr. Speaker. I think, overwhelmingly, people would say, yes, absolutely. Seems only right. Yet we could not get that reform into this bill.

Today, even after we passed this reform bill, children all over America will be placed, involuntarily, into bilingual education classes, classes so that they will be taught in a language other than English. Therefore, their ability to achieve success in our schools and, therefore, later in life in our system, is severely jeopardized. But they will be placed there, and then it will be incumbent upon a parent to go through the hoops to try to get them out. And that is what we call reform.

But, of course, many of these parents do not understand the process all that well and are very, well, intimidated by the process; but they know in their hearts what is best for their children. They know that it would be good for the children to actually be taught in English, and to be taught English quickly, to be immersed in English, to move out of a language other than

English and into the language of commerce, into the international language of commerce and trade. They know that in their hearts; yet their children will be placed in bilingual programs without their permission. This only helps the disintegration of the culture I have described.

As I say, we can be attacked in a lot of ways, Mr. Speaker. It does not just have to be by bombs. And I believe there is a threat to the Nation that is represented by massive immigration, especially of illegal immigrants, that has to be addressed by this Congress.

I am happy to see that one of my colleagues has joined us on the floor of the House, and I would definitely yield to the gentleman for his remarks on this subject.

Mr. ROHRABACHER. Mr. Speaker, I think it is very apropos that my colleague is talking about the danger of out-of-control immigration to our country.

My staff was recently looking at some of the statements that I made back in 1997 in the CONGRESSIONAL RECORD. On September 29, 1997, there was a debate about extending 245(i), which was basically a provision which suggested that if someone was in the United States illegally, instead of having them have to go back, which they traditionally have had to do, to their home country in order to change their status and then stand in line and become a legal applicant, 245(i) would have permitted them just to give $1,000 and to stay in the United States of America and to have their status adjusted here.

During that debate, I stated, and I think it comes right down to the safety of the country, and we are talking about immigration policy: ''Extending 245(i) also raises serious national security questions.'' This is back in 1997. ''Unlike those who enter the United States legally, 245(i) applicants are not required to go through the same criminal checks, history checks, as they do when they go through this check in their home country when they are waiting to come to this country legally. The consular offices located in the applicant's home country, along with foreign national employees working for the State Department, are in the best position to determine if an applicant has a criminal background or is a national security risk.''

Again, this is in 1997. ''Consulates abroad are more knowledgeable, they speak the local language, they know the different criminal justice systems in the country, and they are the ones who should be screening the people before they come to the United States so that we do not have criminals and terrorists coming to the United States, not being screened, and ending up just paying $1,000 to be put in front of the line. Allowing these lawbreakers to apply for permanent status in the United States rather than having them returned to their home countries to do so circumvents a screening process that has been carefully established to protect our country's security.''

Now, that was back in September of 1997. And let us note that any one of the September 11 hijackers who was here in this country would have been eligible then to find a sponsor or to marry somebody, just with the restrictions that they wanted to tweak this 245(i), that would have permitted them to stay in this country. And the general idea of 245(i), had that been totally accepted, which was being pushed in 1997, none of those guys would have had to go home to get their status changed. Every one of the terrorists that slammed into those buildings and was involved in this conspiracy to kill thousands of Americans would have been given an avenue to stay right in this country legally.

Now, when we have policies, when we have people advocating this type of policy that we are going to change the way we do things around here, and this is the policy change, and it is so evidently nonchalant about the national security of our country, something is wrong.

And I would like to applaud the gentleman from Colorado (Mr. TANCREDO) for the leadership he is providing on this overall issue of immigration, because what we have here is immigration out of control. And an immigration policy that is out of control is bound to do great damage to our country, to our people, and to the national security of our country.

Already we have seen what that means just in terms of traditional national security, and that is we have lost almost 4,000 of our citizens to a terrorist attack because we did not have proper control of our borders. We had people here in our country that should not have been here, not to mention of course the failure of the CIA, the FBI, and the National Security Agency, which of course was a failure as well, but now we are just talking about specific policies.

In my State, okay, we have not lost 4,000 people to a terrorist, but we have criminals who are let loose every day in my State because we have a policy of, what? If someone is arrested and they are here illegally, that does not automatically mean that they are sent home to the country from which they come.

Mr. TANCREDO. It is called the catch and release policy.

Mr. ROHRABACHER. Imagine that. We are turning loose criminals, people who have been arrested for crimes in our country and just turning them loose among our citizens. This is outrageous.

And why are we doing this? We are doing this because Americans have good hearts and we are afraid to do things that would cause great hardship and discomfort to very good people. Ninety-five percent of the illegal immigrants, much less the legal immigrants, but 95 percent of them are wonderful people, and we are afraid to do something that would cause them hardship.

Well, who are we representing, anyway? Who are we supposed to represent? We are supposed to represent the people of the United States, the people who happen to be of all races and all ethnic backgrounds. The people of the United States are not one race. We are not representing a racist point of view or one ethnic point of view. We are representing the patriotic interests of every American, no matter what color he or she is, or what religion he or she is.

We should have no apologies that to whomever it is we are saying, ''I am sorry, because you are not here legally, you have to go home,'' or ''you are here illegally and you cannot get benefits to take away from our citizens,'' we should not be afraid to do this.

Mr. TANCREDO. The gentleman is so correct. And let me say, first of all, that long before I came to the Congress of the United States, there was an individual, maybe more than one, but one I know of who has been such a stalwart on the issue of immigration, the safety of the American people brought about through the defense of our borders, and it is definitely the gentleman who has joined me on the floor tonight, the gentleman from California (Mr. ROHRABACHER). I am proud that the gentleman is here and that he is a strong supporter of our efforts.

When we talk about who are we representing, it is fascinating, because most of the immigrants into this country, legal immigrants, people who are here relatively recently and have just come into the country, most of them support our desire to try and reform immigration. So when the gentleman says, who are we representing, it is true that it is as if the majority of the body is actually representing people who are not American citizens and who are attempting to come into the country illegally. That is what it seems like we are representing here instead of our own constituency, instead of the best interests of the country.

David Letterman said on TV not too long ago in his opening monologue, he said, ''The Taliban is on the run and don't know where to go. Pakistan doesn't want them. Iran doesn't want them. Of course, they will have no problem getting into this country.'' And he is absolutely right. Unfortunately, it is true.

I do not know if the gentleman from California heard when I was talking earlier about the INS and their attitude about 245(i), but even after everything that has happened, the gentleman who is the commissioner of the INS, James Ziglar, was speaking in front of a Senate committee and said essentially that ''we've not abandoned this idea of 245(i) extension.'' He says, ''We're just going to be on a slower track until the climate dies down.''

Mr. ROHRABACHER. If the gentleman will yield, I take it the gentleman did remind everyone that on

the morning of September 11, 245(i), and the extension of it, was scheduled to be voted on right here in this body. How ironic that on the day that we suffered this horrendous attack, this monstrous atrocity that was committed against our people, that we had an attempt to open up 245(i)'s wedge into the door, open up a little more.

We were going to vote on that ''reform'' that day, and of course, because of the attacks, we were not able to hold a session that day. Conveniently, that proposal has been shelved recently and has not even been brought up since then. But just the insanity of the fact that people are still considering that type of thing, again making the wedge into the door a little bit bigger so people can squeeze through that opening. It is just insanity.

Now we are paying the price for this, and we are paying it in a big way. Number one, on these people who died. The people who are victims of criminal attacks. Also, our working people who are now working at less wages because illegal immigrants in particular are willing to come in and work for anything. Yes, we have a huge class of people who have benefited, and even the upper middle-class people benefited from having this great expansion in the last 10 years. But guess what, a lot of working people did not because they were competing against people who came here illegally from another country.

Now, do we really care about those people? Yes, we should care about our citizens at that income level who now have a lower standard of living. And we can be proud that, yes, the upper middle income in our country, those people benefited greatly and now they have three cars and now they have houses that are so expensive. Yes, let us feel proud that so many of our citizens, 10 percent of our citizens, can live like that.

□ 1745

What about the other 25 percent of our citizens that are working class people and have found their wages stagnated for a whole decade because people come in from all over the world and undercut them in their attempts to seek higher wages.

Mr. TANCREDO. Mr. Speaker, there is a program called the H–1B program, and I am sure the gentleman is well aware what it is about. You can obtain a visa to come into the United States because your skill is so great and there is such a need that we cannot find American workers. Therefore, Congress has increased the ceiling on H–1Bs to 195,000. They usually go into the area of high tech. Most of these people are working in the computer industry, computer programmers and the like. That industry has suffered the largest decline in this recession.

Hundreds of thousands of people have been laid off, but we in Congress continue to allow H–1B workers to come into the country and take the jobs that would be there for American citizens. Get this, we found the other day another thing for the list of incredible but true. Remember I said these are high tech, skilled workers. When we talk to people in the industry, they say we cannot find these people here. They have Ph.D.s in esoteric areas. We have to get special permission to bring them in.

Mr. Speaker, get this. Five hundred visas are specially set aside for models. Super models. You know, ladies that walk around; models. This is high tech? I mean, I think we have enough beautiful people in the United States, do we really need a special visa category. There are 500 H–1Bs for super models coming into the United States. Believe me, there are a lot of people who I think could take those jobs. But it is just a tiny example of how idiotic this whole thing is.

Mr. ROHRABACHER. If the gentleman would yield, ''idiotic'' is a mild word to describe this insanity. It is bizarre. It is surrealistic to see the type of immigration policy we have and the people who, with a straight face, will come and advocate these insane policies as if they are, in some way, respectable.

Frankly, I do not see how, if I was hiring myself out, like a lot of people who are advocating these things, such as former congressmen who take PR contracts, I do not see how you can advocate for this. The 24–I example and the H–1B visas, this is insanity.

I remember that debate so well because they kept saying we cannot find people to take these high tech jobs in the computer industry. I said we should try to, for example, go into the schools in the inner city and offer to pay entire college tuition for any kids who will agree to work for this high tech corporation when they get out of school. I am sure there are a couple hundred thousand kids that would love to have some type of scholarship program.

I said, what about disabled people? We are talking about computer work, after all. How much work has been done by the computer industry to recruit disabled people who can still work with their hands and be able to do that job? Well, nobody had taken that really into consideration, either. But the easy answer is, of course, to hire somebody from the south part of Asia who will come in who is 25 years old, and come in and work for $30,000 less a year than our own people will work or than will cost us to train our own people to come in and do these jobs. In other words, it is no consideration for the Americans at all. None.

Mr. TANCREDO. Reclaiming my time, the gentleman is absolutely correct. Study after study, even from those kinds of institutions that are pro immigration, study after study shows that the people hurt most by illegal immigration into the country are people at the bottom rung of the ladder, people who are working for minimum wage. The millions of people coming in without skills end up competing for those jobs.

Today I heard the report of the unemployment rate, and it is going up. High tech got hit first. Now we are seeing a major increase in the unemployment rate for people with low job skills, people who are often brought to our attention by the other side of the aisle, the homeless rate is going up, the number of people seeking welfare and food stamps is going up. All of that discussion about all those people, but never once have I heard those Members stand up and say we have at least 11 million people in this country illegally who are competing for those jobs. Nobody cares about that because that is part of their voter base.

Mr. ROHRABACHER. If the gentleman would yield, during this time when we do need some working people in these jobs, it is a fact, that is, when wages rise because employers are competing for better workers. During that time period, we might have created a situation where employers needed employees, and that they would have bid to get their services. We might have ended the problem of our own citizens not having health care coverage, for example, because the employers in order to get people to wash their dishes and wait on the tables, maybe they would have had to then offer those workers a health care plan. Maybe they would have had to talk to the people washing the cars and handling the parking lots, maybe they would have had to offer those people a health care plan.

Instead, we let that opportunity to raise the standard of living and help our people get those benefits from the private sector get away, and it ends up a burden on the taxpayer, not only of those other people but of the illegal immigrants as well.

Mr. TANCREDO. Mr. Speaker, as we bring this discussion to a close, I want to let individuals know there is a way to contact us about this issue, especially people who want to know more about the impact of illegal immigration and what they can do about it. This is the e-mail address and fax number. It is a way in which people can get connected to this subject and perhaps help convince their congressman of the need for reform. We desperately need a change. I thank the gentleman for joining me.

Mr. ROHRABACHER. Mr. Speaker, I salute the gentleman from Colorado (Mr. TANCREDO). This issue would not be discussed without the effort put out by the gentleman.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GONZALEZ (at the request of Mr. GEPHARDT) for today on account of personal business.

Mr. LARSON of Connecticut (at the request of Mr. GEPHARDT) for today on account of a death in the family.

Mr. LUTHER (at the request of Mr. GEPHARDT) for today on account of family matters.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 2:30 p.m. on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WU) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. WU, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. SHIMKUS, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

S. 1196. An act to amend the Small Business Investment Act of 1958, and for other purposes.

S.J. Res. 26. A joint resolution providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on December 13, 2001 he presented to the President of the United States, for his approval, the following bills.

H.R. 10. To modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

H.R. 2540. To amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

H.R. 2716. To amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

H.R. 2944. Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2002, and for other purposes.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, December 17, 2001, at 2 p.m.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, DECEMBER 13, 2001 No. 173

Senate

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001

(Continued)

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand now under a previous unanimous consent agreement we will proceed to a Smith of New Hampshire amendment, then a Wyden-Brownback amendment, a Wellstone amendment, and a McCain amendment that have all been agreed to in that order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I inquire if we can get time agreements so we can move this along. I ask the Senator from New Hampshire and whoever else is interested in the amendment if he would be interested in entering into a time agreement.

Mr. SMITH of New Hampshire. Mr. President, I say to my colleague, there are at least four Senators who wish to speak in favor of the amendment. I can list them if the Senator would like. That is my only concern with a time agreement. I am only going to need 3, 4 minutes maximum, but I cannot speak for other Senators as to how long they would want to speak. Maybe we will know in a few minutes.

Mr. WYDEN. Will the Senator from Iowa yield?

Mr. SMITH of New Hampshire. Forty-five minutes may be reasonable.

Mr. HARKIN. I hope we can enter into some time agreement.

Mr. WYDEN. Will the Senator yield?

Mr. HARKIN. I yield for a question without losing my right to the floor.

Mr. WYDEN. I and Senator BROWNBACK will be next with an amendment on carbon sequestration. I want the chairman to know I will be very brief and I will yield my time to Senator BROWNBACK.

Mr. DORGAN. Will the Senator yield?

Mr. HARKIN. I yield to Senator BROWNBACK for a question without losing my right to the floor.

Mr. BROWNBACK. I would be happy to enter into a time agreement on the carbon sequestration amendment. It can be a short time period. I do not think it is a particularly controversial amendment. We will be happy to enter into a time agreement.

Mr. HARKIN. Does the Senator have any idea about how long?

Mr. BROWNBACK. The comments I want to make will take about 10 minutes.

Mr. WYDEN. If the chairman will yield, I will take 5 minutes and yield my time to Senator BROWNBACK.

Mr. BROWNBACK. We can probably do it in 15 minutes.

Mr. HARKIN. If we can get agreement on 15 minutes on the amendment of the Senator from Kansas.

Mr. MCCAIN. Will the Senator from Iowa yield for a request?

Mr. HARKIN. Yes, I yield for a question or a request without losing my right to the floor.

Mr. MCCAIN. The Senator from Iowa probably knows, in the last 2 days I have been in the queue for an amendment. Unfortunately, for a variety of reasons which are not worth going through now, I am still in the queue. I am afraid it might not be completed by 4.

I know the Senator from Iowa allowed under unanimous consent other amendments whether they were germane or not. I am not sure if my amendment is germane or not. I believe it is, but I still ask he include that amendment in case it is not able to be considered until after 4 o'clock.

Mr. HARKIN. If my friend from Arizona will give us a copy of the amendment, I will be glad to take a look at it and see if it is in the genre of things agreed. I will be glad to take a look.

Mr. MCCAIN. I thank the Senator from Iowa.

Mr. HARKIN. I yield to the Senator from North Dakota for a question.

Mr. DORGAN. I think it makes sense to reach a time agreement on the Smith amendment. I intend to speak against the Smith amendment and want to do so for a minute or so. It seems to me we have debated this over the years as a general subject. If we can reach a time agreement and then let the Senate vote makes sense to me.

Mr. SMITH of New Hampshire. I am amenable to that. I know Senator ALLEN, Senator TORRICELLI, Senator DORGAN—I do not know of anyone else here right now who wishes to speak on either side of the amendment.

NOTICE

Effective January 1, 2002, the subscription price of the Congressional Record will be $422 per year or $211 for six months. Individual issues may be purchased for $5.00 per copy. The cost for the microfiche edition will remain $141 per year with single copies remaining $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

Michael F. DiMario, *Public Printer*

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

Printed on recycled paper.

Mr. HARKIN. May I ask the Senator from New Hampshire, how about 40 minutes?

Mr. TORRICELLI. Is there a unanimous consent request now before the Senate?

Mr. HARKIN. I have the floor and ask if we can get a time agreement on this amendment. The Senator from New Hampshire has been willing to work this out. I am trying to see if we can get a time agreement. I asked if we can have a 40-minute time agreement. I do not know if that is acceptable or not.

Mr. TORRICELLI. In my estimation, there are too many Senators to be commenting in 45 minutes. There are four on our side and three or four on the other side. We may be able to accommodate that in an hour, but 40 minutes is unlikely. I say to the Senator from Iowa, if he does offer a unanimous consent request, I have to ask him to include a secondary amendment that Senator SMITH wants to offer, as long as that is in order in the time period as well.

Mr. HARKIN. If we can reach a time agreement. How about 50 minutes?

Mr. SMITH of New Hampshire. That is acceptable to this Senator.

Mr. HARKIN. Is that acceptable to this side?

Mr. TORRICELLI. It is acceptable to me, but that Senator SMITH before the close be recognized to offer a second-degree amendment.

Mr. REID. Will the Senator yield?

Mr. HARKIN. I yield.

Mr. REID. The Senator from New Hampshire said he wants to speak for 5 minutes. That will give us a time to call some Senators. We may have one Senator who may want to speak 20 minutes himself. Give us time to work on that. We cannot agree to a time right now until we talk to some Senators.

Mr. HARKIN. I do not know why we cannot agree to a time limit. We have people in the Chamber who are interested in the amendment. We can reach a time agreement, and everybody will have their time. The Senator from New Hampshire said he wants to take 5 minutes. He is honest and forthright.

Mr. TORRICELLI. The problem is, we have a number of Senators who all want to be heard.

Mr. DORGAN. If the Senator will yield, I do not think the question is whether people want to be heard. The question is how long they want to be heard on the amendment. I will oppose it, but I am perfectly willing to accept 45 minutes. Are there people who want to comment 20, 30 minutes in opposition? If so, we will have difficulty getting a time agreement. My hope is, given the hour and difficulty of moving this bill along, that we can get a time agreement on this amendment on both sides.

Mr. HARKIN. I hope we can get a time agreement now. I do not want to cut off anybody speaking on this, but the proponent of the amendment himself told me he only wanted to take 5 minutes. I assume the others in 5, 7 minutes can have their say.

Mr. TORRICELLI. My suggestion is, if there are four or five Democrats and four or five Republicans who are for it, there are people in opposition, at 5 minutes we have to have an hour at a minimum to accommodate them.

Mr. HARKIN. How about 1 hour on the Smith amendment?

Mr. TORRICELLI. One hour, at which point there will be secondary amendments.

Mr. REID. Reserving the right to object, we are not going to agree to a time limitation. There are Senators I have to contact. People may not like it, but that is the way it is.

Mr. TORRICELLI. I suggest we begin the debate and, during the course, see if we can work it out.

Mr. HARKIN. There is no time agreement.

The PRESIDING OFFICER. Under a previous order, the Senator from New Hampshire is recognized.

AMENDMENT NO. 2596 TO AMENDMENT NO. 2471

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself, Mr. TORRICELLI, Mr. GRAHAM, Mr. ALLEN, Mr. ENSIGN, and Mr. HELMS, proposes an amendment numbered 2596 to amendment No. 2471.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for Presidential certification that the government of Cuba is not involved in the support for acts of international terrorism as a condition precedent to agricultural trade with Cuba)

At the end of section 335, insert the following:

''(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that Cuba is not a state sponsor of international terrorism.''

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that Senators TORRICELLI, GRAHAM, ALLEN, ENSIGN, and HELMS be added as original cosponsors of my amendment.

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

Mr. SMITH of New Hampshire. Mr. President, I don't believe I will use the 5 minutes I have asked for.

As some have said, this issue has been debated in the past. Everyone is familiar with it. It is not necessary to take a lot of the Senate's time. Given the fact we are trying to finish the Senate's business, I will be considerate of that.

I simply say in a few words what the gist of this amendment is. The underlying farm bill contains language that strikes the current statutory restriction against private financing of food and medicine sales to Cuba. The administration opposes that language, I think with good reason.

My amendment conditions—it does not substitute the language—the financing of food and medicine sales to Cuba on the President certifying to Congress that Cuba is not a state sponsor of international terrorism. That is all. It conditions it; it does not substitute it. I would have liked to have substituted it. However, I came in with a milder version to try to gain support in what I think would be the fairer thing to do. We would condition the financing of food and medicine sales to Cuba on the President certifying to Congress that Cuba is not a state sponsor of international terrorism.

I don't know if my colleagues have been following very closely what is happening in Central America, but there is a lot of terrorist activity in Central and South America with Cuba and other nations. Our President has declared war on terrorism. I remind my colleagues of the exact language that President Bush used:

> Every nation in every region now has a decision to make. Either you are with us or you are with the terrorists. And from this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.

Now, surely if Cuba—and I emphasize the word ''if''—if Cuba is in any way harboring terrorists, supporting terrorism, participating in any way, helping the international terrorist community, why should we be providing anything to them to help do that? If Cuba is a state sponsor of terrorism, the question should be: Should we allow for private financing of agricultural sales to Cuba? I don't think we should be making a profit while we are supporting international terrorism. I don't think that is what my colleagues would want to see happen.

We shouldn't even be trading with Cuba, in my view, if they harbor terrorists. That hardly goes back and supports what the President said when he said: Either you are with us or you are with the terrorists, and any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.

If a country is harboring terrorists, the President said we will go after them one way or the other. It is hardly going after them if we trade with them and make a profit while doing so.

I think the answer is no, no we should not allow private financing of agricultural sales to Cuba. And no, if Cuba is a state sponsor of terrorism, we should not be trading with them. It is that simple. That is the amendment before the Senate. I don't consider this amendment to be a referendum on U.S. policy toward Cuba. I don't even consider this to be an amendment on a referendum on trade policy. I simply say

this amendment is a referendum on nations that support and sponsor international terrorism.

I remind my colleagues that the State Department lists the following seven States, as of 1999, as state sponsors of terrorism: Iran, Iraq, Syria, Libya, North Korea, Cuba, and the Sudan. Cuba is with pretty heavy company. Let me repeat the countries in their company out of all the nations in the world: Iran, Iraq, Syria, Libya, North Korea, and Sudan join with Cuba as seven states listed as state sponsors of terrorism.

My amendment does not say they cannot trade; it doesn't say you can. It says let the President certify it, and we will be fine.

I rest my case and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, the most extraordinary thing about this debate is we are having it at all. The President of the United States has declared war on terrorism. American soldiers are fighting terrorist organizations, and the Senate is about to approve legislation, but for this amendment, which would allow the financing of American products in some instances from American institutions—insured by the American taxpayer—to governments that we have established are harboring terrorists. If I didn't hear it myself, I would not believe it. And the American people are not going to believe it.

Countries on this terrorist list are not broad. They are well defined. It is specific: Libya, Iran, Iraq, and in this instance, in this legislation for our purposes, Cuba.

Is it a fair designation? It is from the State Department. It was designated in the Clinton administration, and it is designated in the Bush administration with the following language from the State Department:

> A number of Basque terrorists gained sanctuary in Cuba some years ago. They continue to live on the island, as do several American terrorist fugitives.

I continue:

> Havana has maintained ties to other state sponsors of terrorism and Latin American insurgents. Colombia's two largest terrorist organizations, the FARQ and the ELN, maintain a permanent presence on the island.

In addition to our national policy against terrorism, we have a national policy against states that are involved in bioterrorism. Cuba has the greatest bioterrorist capability in the Western Hemisphere. Cuba prohibits international inspection of its biological facilities. In 1998, Secretary of Defense Cohen, a former member of this institution, wrote to the Armed Services Committee:

> I remain concerned about Cuba's potential to develop and produce biological agents, given its biotechnology infrastructure.

The Defense Department, in 1998, in a report entitled ''Cuba's Threat to American National Securities,'' said:

> Cuba's current scientific facilities and expertise could support an offensive biowaepons program. In at least the research and development stage, Cuba's biotechnology industry is among the most advanced in all developing countries.

There needs to be one message from this Government. We are fighting terrorism, but now we are going to finance exports to countries that harbor terrorists. We are attempting to undermine the capability of nations that develop bioterrorism, but now we are going to finance products by our institutions to those very countries. It doesn't make sense. No one could defend this vote to their constituents. I don't care if every person who lives in your State is a farmer. I don't believe there is a farmer in America who wants to make a buck by having this country finance exports to Governments such as that.

President Bush has stated it very plainly. In this war against terrorism, you are for us or you are against us. Where is this Government now that we want to subsidize by financing exports to them? In May 2001 in Tehran, Fidel Castro proclaimed:

> Iran and Cuba, in cooperation with each other, can bring America to its knees.

Mr. Castro has decided whether he is with us or he is against us.

The Canadian security intelligence service, which investigates terrorist threats, said in a 1996 report:

> Cuba has been a supply source [to terrorist groups] for toxin and chemical weapons.

In a 1999 book ''Biohazard,'' a former KGB colonel, Ken Alibek, second in command of the Soviet offensive biological warfare program until 1992, wrote that he was convinced the Castro government was deeply involved in biological warfare research programs.

In each of these ways, if you do not want to take the testimony of the U.S. State Department, if you do not want to follow President Bush's command about which governments chose sides, recognize that the conclusions I bring to the Senate are not American alone. On Castro's involvement in terrorism, his involvement in bioterrorism, we have the testimony not simply of Americans but of our Canadian allies, and even our former Soviet adversaries.

I do not rest my case on the support of terrorism by Castro alone or his biochemical warfare. There is another aspect to the amendment that Senator SMITH and I offer with Senator NELSON and Senator GRAHAM, Senator ALLEN, and others of our colleagues, and that is the question of harboring fugitives from justice in the United States. Under our amendment, if Fidel Castro wants to get the advantage of the financing of American agricultural exports, he can get that financing. He has to get himself off the terrorism list by stopping harboring terrorists. He has to allow the inspection of his biochemical warfare facilities. If he does those things, he can get our exports financed by institutions supported by this Government.

But he has to do one more thing under the secondary amendment we are going to offer: Stop harboring fugitives from American justice. Cuba currently is giving safe haven to 77 American citizens who have been indicted or convicted of committing felonies against the United States. These include fugitives who have been convicted of murder, kidnapping, and possession of explosives. They have escaped American justice because Fidel Castro allows them to live safely and freely, in most instances, in Cuba.

Most on this list—60 of the 77—were convicted of what is a terrorist act now in the minds of most Americans: Hijacking an airplane.

Is there a Member of this Senate who will explain to citizens of their State that we are about to change a bipartisan American foreign policy restricting the financing of exports to Cuba and will not accept a condition that first the people who have engaged in the terrorist act of hijacking an airplane—that those fugitives not be returned to the United States? If ever I have heard an explanation difficult to give to the American people, particularly since the events of September 11, this would rank as the most difficult. This may be hard for people in most States, but in my State it would be impossible.

In 1973, Joanne Chesimard was riding on the New Jersey turnpike, the ''thruway'' to most, along with some accomplices. She was stopped and opened fire on the officers involved. A New Jersey State trooper, Werner Foerster, was murdered. She was convicted. She was sent to jail for having taken his own weapon and shooting him twice in the head, killing him instantly.

In spite of the fact she was given life in jail, she escaped, in 1979, from the Reformatory for Women in Clinton, NJ. She fled to Cuba where, since 1984, she has been granted asylum and has lived for 17 years.

Castro gives asylum to the murderer of a State trooper, a woman who committed terrorist acts against the United States. This is the Government whose exports we would now finance from institutions supported by the American taxpayer. Fidel Castro knows how to end the prohibition on the financing of exports.

Members of the Senate will hear we are using food and medicine as a weapon against the poor people of Cuba. It is not so. It has not been so for nearly 10 years. I know. Legislation that I sponsored in the House of Representatives, the Cuban Democracy Act, lifted prohibition on the sale of American agricultural products and medicine 10 years ago. Fidel Castro can buy anything he wants to buy, any food, any medicine. But he has to pay for it. That is the law. And that is the issue because under the provisions of this bill, now we are not allowing him just to buy, but we are going to finance the sale.

Fidel Castro knows how to end that prohibition: Get terrorists out of your

country, open up for biological weapons inspection, and send these 77 fugitives from justice back to the United States.

Yet I know because I have been through this debate before, we will be told we are using food as a weapon. No, we are using the leverage of finance as a weapon for justice—for justice. Yet in moments you will hear, in a false argument to the American farmer, that if only we could end this embargo, if only we could finance these exports, the problems of American agriculture would be ended.

Let's address that part of the argument. Let's assume we did not care about using this leverage to stop terrorism. Let's assume we did not want to use it for biological warfare leverage. Let's assume we didn't care about the 77 fugitives. Let's just take the argument on its merits with all that aside. Is it a fair argument to make to the American farmer that somehow, 90 miles off our shores, there is a market? We should compromise our principles because there is a market that will ease the financial burden of the American farmer?

As this chart indicates, looking at markets around the world, there is a reason, in these 10 years, Fidel Castro has not bought American agricultural products in spite of the fact we changed the law to allow him to do so. It is the oldest reason in the world: He doesn't have any money. The purchasing power, by comparison, of a Cuban consumer is $1,700—below Honduras and Egypt. The per capita income of a Cuban is $500. There is no money. It provides no opportunity to the American farmer. That is why Castro has not taken advantage of our lifting of the prohibition of the sale of American products.

Then they will argue maybe the consumer doesn't have any money in Cuba but we will sell to the Cuban Government. Oh, if it were so. Fidel Castro currently owes $11 billion to international financial institutions, among the highest per capita debt ever recorded by any nation in history. He owes another $20 billion to the former Soviet Union and other socialist countries. They all stand in line before any American financial institution would ever receive the first dollar.

He owes more money for recent purchases. South Africa extended him $13 million in credit for diesel engines in 1997. It has never been paid. There was $20 million loaned for fish imports from Chile. It has never been paid.

This gives you an indication of Cuba's outstanding foreign debt: $6 billion to governments; $2.7 billion to banks; and, $1.7 billion to private companies—all in arrears.

I ask the authors of the farm bill exactly which American financial institution would like to ask their depositors—no less the regulatory institutions of the U.S. Government that insure—would you like a piece of this debt? Who would like to get in this line behind all of these other people?

The simple truth is Fidel Castro cannot borrow from international institutions. He cannot borrow from other governments. He is certainly not in a position to borrow from American financial institutions. Since we insure those institutions, even putting aside the policy reasons I have argued, we shouldn't allow it.

Finally, what will at this point be a crumbling argument, some of my colleagues may argue: Well, maybe he doesn't have money, maybe he doesn't have credit, but he can certainly bargain with our banks with Cuba's cane sugar.

What sugar? Cuba is now producing less sugar than it produced in 1959. Every year's crop is less. He has already tried to barter for oil and manufactured products. He has been unable to deliver the sugar to meet the contracted price. There is no sugar.

I end on this note: I think the case is compelling as far as the war on terrorism. I think the President has challenged this Congress as he has challenged every other government: You are with us or against us. Castro chose sides. He chose sides. It would be indefensible in the midst of this policy and this war on terrorism while he remains on that terrorist list to now finance these exports. But yet I know because we are a good and a generous people that some of my colleagues will be inclined to say maybe his government did these things. Maybe he can't finance the exports. Maybe it is a hollow promise to American farmers. Maybe it isn't responsible as part of the war on terrorism. But let us just show who we are. Let us do it anyway. Let us go the extra mile.

We have gone the extra mile. Since 1992, the United States has approved $3 billion worth of food and medicine and humanitarian aid to Cuba. Today, we send more food and medicine to Cuba free—free—despite our relationship with their government which is more adversarial than any relationship between any other two countries on Earth. We are a generous people. We are helping the Cuban people. We have kept them alive with massive aid efforts.

I rest my case. This makes no sense, and it is wrong. Senator SMITH has offered an amendment that will remove provisions from this bill of allowing agricultural finance unless and until Fidel Castro gets himself removed from the terrorist list.

I have an amendment at the desk that will expand this to provide that unless and until he returns fugitives from justice to the United States, he also will not be allowed to get the advantage of financing of American exports.

AMENDMENT NO. 2597 TO AMENDMENT NO. 2596

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI] proposes an amendment numbered 2597 to amendment No. 2596.

The amendment is as follows:

(Purpose: To provide for Presidential certification that all convicted felons who are living as fugitives in Cuba have been returned to the United States prior to the amendments relating to agricultural trade with Cuba becoming effective)

At the end, strike ''.'' and insert ''and until the President certifies to Congress that all convicted felons wanted by the Federal Bureau of Investigation who are currently living as fugitives in Cuba have been returned to the United States for incarceration.''.

Mr. TORRICELLI. Mr. President, I offer the amendment as a secondary amendment to Senator SMITH's amendment. I ask unanimous consent that it be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The amendment is pending.

Mr. TORRICELLI. Mr. President, I will continue to hold the amendment. I assure Members of the Senate that unless and until I am assured that fugitives who have killed people in my State are returned as a condition of this bill that this bill will not proceed. I will continue to hold the floor.

At this point, since I am not allowed to offer this amendment and it is not agreed to, I will continue on this floor if I have to read a phone book on this floor.

Mr. NELSON of Florida. Mr. President, will the Senator yield?

Mr. TORRICELLI. I would be happy to yield.

Mr. NELSON of Florida. Mr. President, I want to substantiate the seriousness of the 77 people who are fugitives from justice now living in Cuba and the crimes they have committed.

The Senator from New Jersey told us about a crime that was committed in his State. A highway patrol trooper was shot in the face twice by someone who was subsequently convicted, imprisoned, and escaped from prison, and is now a fugitive from justice being harbored by the Government of Cuba.

If you look at the crimes that have been committed by these 77 fugitives, they include air piracy, hijacking an aircraft, crime aboard an aircraft, crime of escape, aiding and abetting, crime of kidnapping, and the crime of solicitation to commit murder.

I thank the Senator from New Jersey for yielding for me to underscore the gravity and the seriousness of these fugitives.

I also think it is quite symbolic that on this day so many of us in this Nation have been riveted to our television sets to see a tape of Osama bin Laden mocking the United States, laughing and enjoying it as he is telling the stories of the World Trade Center being hit by aircraft and the Pentagon in Washington hit by aircraft.

I think it is somewhat ironic that then we bring to the floor, on the very same day that we have once again focused on terrorism and terrorist acts and our war against terrorism, an example of the U.S. State Department

having on a list published in 1999 seven states that sponsor terrorism. One of those seven states is Cuba. We have a bill before us that would allow the export of our bounty and the amber waves of grain and other products that come from the beneficent bounty of this Nation's agricultural produce internationally financed and financed by banks without Cuba being removed from the official U.S. State Department list as state sponsors of terrorism.

It is just another reminder to us that if we are going to be serious about the war against terrorists—I think America is as a result of what happened on September 11—then we had better get serious that once we mop up in Afghanistan, we have to start mopping up these cells in other places.

What does the U.S. State Department say is one of those states that sponsors terrorism?

I thank the Senator from New Jersey and the Senator from New Hampshire for bringing this to the attention of the Senate. This Senate could easily adopt, in this time of a war against terrorism, these amendments by a voice vote, and we could proceed with what is otherwise a very fine farm bill, a bill that is for the benefit of this Nation.

I want to lend my voice to the Senator from New Jersey and the Senator from New Hampshire to tell them that I believe that these amendments ought to be adopted.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I believe I still have the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, it is my understanding now that the second-degree amendment that I have offered to Senator Smith's amendment is now incorporated?

The PRESIDING OFFICER. The second-degree amendment is pending. It is not incorporated.

Mr. ALLEN. Will the Senator from New Jersey yield?

Mr. GRAHAM. Will the Senator from New Jersey yield?

Mr. TORRICELLI. I am happy to yield.

Mr. GRAHAM. I thank the Senator.

Mr. President, I would like to, if I could, continue to amplify the issue that my good friend and colleague from Florida has just discussed; and that is to attempt to put a human face on this issue which we are dealing with at the present time.

The question is, under Senator Smith's amendment, should there be a requirement that Cuba reform itself so that it is no longer one of the seven nations in the world to be listed as a sponsor of state terrorism in order to get the benefit of U.S. financing of agricultural sales to Cuba, and now the amendment that is pending from the Senator from New Jersey, which would also require that there be a return to the United States of those fugitives from justice who have found sanctuary in Cuba?

Who are some of these fugitives from justice? Let me just talk about three of them.

First, Victor Manuel Gerena. Mr. Gerena is on the FBI's Ten Most Wanted list. He belongs to a Puerto Rican independence group, the FLAN. This group is responsible for numerous acts of terrorism, terrorism in the United States of America, including a 1975 bombing in New York City that killed 4 and injured 63. He is also sought in connection with the armed robbery of $7 million from a security company.

How was he able to get himself in a position to rob a security company of $7 million? He got there because the Cuban Government aided Gerena and his group in preparing the robbery and allegedly funneled them $55,000 to pay for the operation.

Does that sound a little eerily reminiscent of what was happening before September 11?

Gerena and a part of the stolen $7 million were smuggled into Cuba by diplomats stationed at Cuba's Embassy in Mexico City. That is one of the fugitives from justice that we believe should be returned to face justice as a precondition of the United States providing financing for agricultural sales to Cuba.

Let's talk about Charles Hill and Michael Finney.

Mr. ALLEN. Mr. President, I call for regular order under rule XIX. The Senator has yielded for more than a question.

Mr. GRAHAM. Mr. President, I asked the Senator from New Jersey if he would yield. He yielded. And I am speaking on his time.

The PRESIDING OFFICER. The Chair informs the Senator that it is the custom of the Senate, with reference to Senators yielding in debate, to construe the rules liberally unless prior notice has been given that they shall not be so construed.

Mr. GRAHAM. Thank you, Mr. President. I wonder if the Senator from New Jersey——

The PRESIDING OFFICER. Let me add to the Senator from Virginia, that given the notice we have now received from you, the rules will be strictly construed from this point forward.

Mr. GRAHAM. I wonder if the Senator from New Jersey is familiar with Charles Hill and Michael Finney?

Mr. TORRICELLI. I say to the Senator from Florida, I am indeed familiar with them.

Mr. GRAHAM. Maybe you might be further illuminated, and our colleagues informed, about these two people who are also part of that large pool of those who are fleeing American justice in Cuba.

Mr. Hill and Mr. Finney are accused of murder and airplane hijacking. In 1971, the two were driving a car filled with guns and explosives from California to Louisiana in an operation for the militant Republic of New Afrika, a small organization that seeks a black separatist nation within the United States.

As Hill and Finney crossed into New Mexico, they were stopped by a 28-year-old State trooper, Robert Rosenbloom. There was a standoff. Mr. Rosenbloom was tragically shot dead.

Nineteen days later, the fugitives scrambled aboard a TWA plane in Albuquerque and hijacked a flight which was bound for Chicago.

Interviewed in Havana last year by a U.S. journalist, Hill said when he arrived in Cuba he ''was accepted by Fidel Castro's government as a soldier of the people's revolution.''

Senator TORRICELLI, were you aware this is the kind of person but for the amendment you are proposing would continue to be harbored in Cuba and would be sheltered from U.S. justice, and for which the family of Robert Rosenbloom, shot dead, would receive no sense of finality in terms of the loss of their loved one?

Mr. TORRICELLI. I say to the Senator from Florida, it would leave American law enforcement with no leverage to get the return of these fugitives to the United States. You can imagine the pain of an American family whose loved one was murdered by one of these fugitives now knowing that our country's institutions are lending money to this government, and those very institutions being, in some cases, insured by the U.S. Government. I think it would be extremely painful and difficult to explain.

Mr. GRAHAM. I thank the Senator.

We have been talking about individual terrorists who are being sheltered in Cuba. But beyond individual terrorists, there are organizations of terrorists. There are cartels of terrorists which are being sheltered in Cuba.

I wonder if the Senator from New Jersey is aware of the fact that after a long history of Cuba providing direct support, including direct military support for terrorists and other revolutionaries in the Western Hemisphere, now Cuba is becoming the center of the hemispheric organizations for terrorists.

Was the Senator from New Jersey aware of that latest contribution of Fidel Castro to the terrorization of the world?

Mr. TORRICELLI. Indeed, I was not, I say to Senator GRAHAM, but I am appreciative of the fact that the Senator is bringing it to the attention of our colleagues, if they are, indeed, serious about their intentions of now financing exports to this government.

Mr. GRAHAM. I say to the Senator, I am sorry to have to report that not at some distant point in the past, and not under the administration of a member of our party, but under the current administration, as recently as April of this year, 2001, the State Department, in its report ''Patterns of Global Terrorism'' has this to say about Cuba and

terrorism: That Cuba maintains ties with other state sponsors of terrorism. As an example, the two most notorious Colombian insurgent groups, the Revolutionary Armed Forces of Colombia, typically referred to as the FARC, and the National Liberation Army, the ELN, maintain a permanent presence in Cuba.

However, Havana is not limited to just providing a shelter for Colombian groups. We found, within the last 18 months, that the Irish Republican Army has its western hemispheric branch located in Havana. We found that from branch relationships that were being developed, particularly with the FARC in Colombia, through which it was alleged that the IRA would receive funding for its terrorist activities through the large drug resources of the FARC, and the FARC would get the IRA's expertise in urban guerrilla terrorism tactics so that they could move from the hinterlands of Colombia into the major cities of Colombia with their acts of terrorism and civil disorder.

Was the Senator from New Jersey aware that this is one of the current phases of Fidel Castro's support for terrorism?

Mr. TORRICELLI. I am. Indeed, it is because of not only allowing them to operate but a permanent presence for these terrorist organizations in Havana that the State Department, under both the Clinton administration and now the Bush administration, has cited Fidel Castro's government as being complicit with terrorism on what remains a very small list of rogue nations. This is not conduct where terrorists simply pass through the country. It requires a continuous, outrageous national policy of actually harboring these organizations that the Senator cited.

Mr. GRAHAM. To go even further, that Cuba, under this same report of the State Department in April of 2001, regularly conducts political, social, and economic interactions with other countries listed on the State Department list of terrorists, such as Libya, Iran, Iraq, and through these relationships, Cuba has access to those countries' illegal supplies of weapons and biotech products, what is the reaction of the Senator from New Jersey to this current grip of terrorism that Fidel Castro has placed on his country and is exporting around the world?

Mr. TORRICELLI. As I have noted previously, it is important for our colleagues to know that the fact that Fidel Castro is involved in bioterrorism and has these facilities that he refuses to allow international inspectors to visit is cited not only by the U.S. Government but cited by the Canadian Government as a source of concern. We have information from former Soviet officials that, indeed, they were aware of it and concerned of it themselves.

Mr. GRAHAM. And well they should be. The U.S. Office of Technical Assessment has included Cuba among the 17 countries in the world which are believed to possess biological weapons.

As I believe the Senator said a few moments ago in his statement, the former deputy director of the Soviet Union's biological weapons program, Mr. Ken Alibek, revealed that the Soviet Union had been providing assistance to Castro and that Cuba now has one of the most sophisticated genetic engineering labs in the entire world. Was the Senator from New Jersey aware of that history of preparation for violence through terrorism?

Mr. TORRICELLI. I am. I hope our colleagues understand this. When we talk about Fidel Castro's dictatorship today, this isn't some old, unsettled grudge. This is a continuing security problem. Ninety miles off our shore we have now established there are fugitives from American justice, including people who have hijacked airplanes and committed murder. There are now established bases for terrorist organizations on an ongoing basis, and an international concern for bioterrorism—not 40 years ago, not 30 years ago, right now, while the United States is engaged in a war against terrorism.

Mr. GRAHAM. Sad to say, we have out of the mouth of Fidel Castro and his minions the most current statement of his attitude toward terrorism and his attitude toward the United States, the Nation which now is being asked to provide U.S. financing for agricultural sales to Cuba.

Would the Senator be surprised that when the tragedy of September 11 was made known to Fidel Castro, while he initially offered some words of support to the United States, he also urged United States policymakers to be calm and stated that the attacks against the World Trade Center and the Pentagon and the failed attack that ended up in the fields of western Pennsylvania were a consequence of the United States having applied ''terrorist methods'' for years? He is essentially saying that the United States and Osama bin Laden are mirror images of one another. Those were the statements on the day of the attack.

Subsequent statements relative to the attack of September 11 have become even more hostile. A recent press report quoted Cuba's mission to the United Nations as describing the United States' response to the attacks as ''fascist and terrorist,'' so we not only are Osama bin Laden, we have now become Adolf Hitler, and that the United States was using the attack as an excuse to establish ''unrestricted tyranny over all people on Earth.'' Castro himself has said that the U.S. Government is run by extremists and hawks whose response to the attack could result in ''the killing of innocent people.'' Would the Senator believe that?

Mr. TORRICELLI. Let me respond to Senator GRAHAM, if I could. I hope every Senator thinks about the incongruity of this situation. Fidel Castro is blaming the attacks of September 11 on the policies of the United States.

He is now stating his opposition to our military campaign abroad, and we are about to engage in finance of our products to his country and his government. Imagine explaining that to the parents of an American soldier now in Afghanistan or coming to New York, New Jersey, or Virginia or explaining that to the widow of a victim of the September 11 attacks. Talk about choosing whether you are for us or against us, and then trying to explain away what happened to our country.

I am happy to yield for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, it wasn't clear to me who had the floor. I believe the Senator from New Jersey has the floor, and the Senator from Florida is sort of asking questions. In terms of time here, I am wondering if we could get some notion. Is the Senator from Florida intending to seek recognition on his own when he finishes these series of questions so we might have some sense of whether others might be recognized in this debate?

Mr. GRAHAM. The Senator from New Jersey has certainly clarified some questions of uncertainty in my mind. I still have some policy comments I think bear on the question of whether, in the face of the actions of Fidel Castro relative to those who have used his country as a safe haven for murderers, airplane hijackers, and others, and as a continuing caldron for the support of terrorism in the western hemisphere throughout the world, it is in the United States' national interest to be providing financing for the food that he will control and distribute as he wishes to his people.

Mr. DORGAN. Mr. President, if the Senator from New Jersey will yield further, I respect that, and I understand the rules of the floor. The Senator is making a long statement and then asking, ''are you aware of that.'' He has the right to do that in the form of a question. The Senator from Virginia would like to speak. I would like to speak. Could we get some sense of time here, how long this inquiry will go on? Does the Senator intend to seek recognition on his own behalf, or the Senator from Virginia expect to seek recognition next so we could have some sense of whether or when we could actually have a debate about this policy?

Mr. GRAHAM. First, the Senator from New Jersey has been so lucid and candid and expansive in his knowledge of these issues that he has responded to most of the questions that I have, I am certain, to the great benefit, certainly, of this Senator and all of our colleagues. My further questioning will be very brief. Yes, I do have some policy statements that would be inappropriate to attempt to deliver in the context of asking questions of the Senator from New Jersey.

Mr. TORRICELLI. Perhaps if I can answer what I suspect the question is going to be, it was my intention that

when Senator GRAHAM finished, we would yield the floor. We had settled the matter of the secondary amendment. I assumed Senator ALLEN would be recognized next and, at that point, I will have yielded the floor. Senator GRAHAM will be recognized again to make a statement.

Mr. DORGAN. It is actually interesting that the Senator from New Jersey seems to be well aware of that about which you are inquiring. The Senator indicated he is well informed and, observing that, I would concur. All I am interested in doing is to see if we can have a debate spring out and when that might occur.

Mr. TORRICELLI. I can't tell you how helpful it is to be reminded of these things by the Senator.

Mr. DORGAN. It also appears you are intimately familiar with all of that which is being delivered to you by my colleague from Florida.

Mr. GRAHAM. This is a testimonial to the wisdom and range of knowledge of our colleague from New Jersey. He has certainly earned all of those accolades, and the Senator from North Dakota has reinforced that. I appreciate the Senator yielding and for his response to the questions.

As I indicated, it is my intention, at an appropriate time, to seek recognition to make a statement of policy relative to the ill wisdom of the United States under these circumstances providing financing for the sale of agricultural products to Fidel Castro that he can then use for whatever sources of intimidation and control he would put them to, as he has to so many other aspects of the life of the Cuban people over the last 40-plus years. So I thank the Senator from New Jersey for yielding and for the thoughtfulness of his responses and the solid policy of his amendment.

Mr. TORRICELLI. I thank the Senator from Florida for being an ally through the years on this issue and for so much leadership as all of us have tried to regain the freedom of the Cuban people. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, I rise in support of the amendments of my colleagues, Senators TORRICELLI and SMITH of New Hampshire. These amendments, of which I am a cosponsor, are very good amendments. I have not had the opportunity in years past to hear the argument and debates on these issues. I consider these amendments to be very well founded. What they do is they have conditions for lifting restrictions on the financing of agricultural sales to Cuba, and two findings have to be made. The first condition is that the President must certify to Congress that convicted felons wanted by the FBI who are currently living as fugitives in Cuba have been returned to the United States for incarceration. I will not repeat all of the evidence in this regard that was previously cited by Senator TORRICELLI, Senator NELSON of Florida, and Senator GRAHAM of Florida, concerning the return of criminals to the United States.

The second condition is that the President must certify to Congress that Cuba is not a state sponsor of international terrorism. That is the amendment of Senator BOB SMITH.

Mr. President, I support fair and free trade and increased opportunities for U.S. workers and businesses, including our agricultural sector, to trade with other countries. However, prudence would lead us to seek to finance trade with countries that are not terrorist states. The Secretary of State maintains a list of countries that have repeatedly provided support for acts of international terrorism. Currently, there are seven countries on that State Department terrorism list. They are, in alphabetical order: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. It is appropriate that Cuba is on that list.

Fidel Castro's regime has a long history of providing arms and training to terrorist organizations, many of which were articulated previously by Senator GRAHAM. Our State Department notes that Havana remains a safe haven to several international terrorists and U.S. fugitives as well.

As we have seen since September 11, terrorists operate in an environment largely dominated by legally and geographically defined nation states. Terrorists sometimes rely on state-provided funding, bases, equipment, technical advice, logistical and support services.

In the wake of the September 11 terrorist attacks on the World Trade Center and Pentagon, President Bush, in addressing our Nation, stressed that the United States, in responding to these attacks, will make no distinction between the terrorists who committed these acts and those who harbor them. As we heard, the President characterized these terrorist acts as ''acts of war.''

An ongoing issue for our Congress and administration is how do we respond to state-sponsored or state-sanctioned terrorists and terrorism? There is no question that we need to respond. In my view, this country has dawdled along too many years not being worried about international terrorism, thinking that it would never affect us here at home. We have come to recognize that we must wage warfare against terrorists and those who aid, support, and comfort them.

An important part of that warfare is to oppose the terrorist states with every reasonable weapon at hand. That may be financial intercepts, surveillance, enhanced scrutiny of entrants into our country, infiltrating some of these terrorist organizations, greater intelligence here as well as abroad, military action when necessary, law enforcement abroad as well as here at home. All are components of our multifaceted war on terrorism.

Now, trade is also an important component of our current struggle against countries that are on the terrorism list.

Let's get into another aspect of Cuba. In February of this year, the State Department reported several salient facts about Cuba and life in Cuba for the people of Cuba, who we are purportedly trying to help. I do want to help the people of Cuba, but here is how we help them: First, let's recognize what they are facing.

Cuba's human rights record remains poor. It continues to violate systematically the fundamental civil and political rights of its citizens. The State Department pointed out that the citizens of Cuba—as if we didn't know it already—do not have the right to change their government peacefully.

The Government of Cuba does not allow criticism of the revolution four decades ago or its repressive, tyrannical leaders.

Cuba's laws against antigovernment statements and expressions of disrespect of Government officials carry penalties of between 3 months and 1 year in prison.

If Fidel Castro or members of the National Assembly or the Council of States are the objects of this criticism, the sentence for such expressions can be extended to 3 years in prison.

Recently, Fidel Castro was asked by Robert McNeill:

> Do you have political prisoners still in jail in Cuba?

Castro responded:

> Yes, we have them. We have a few hundred political prisoners. Is that a violation of human rights?

Well, I will answer Castro's rhetorical question. Yes, it is; darn right it is a violation of human rights. Castro's human rights practices are arbitrary and repressive. Hundreds of peaceful opponents of the Government remain imprisoned. Many thousands more are subject to short-term detentions, house arrest, surveillance, arbitrary searches, evictions, travel restrictions, politically motivated dismissals from employment, threats to them or their families, and other forms of harassment by the Cuban Government authorities.

Mr. President, let me repeat what our State Department said. Citizens of Cuba do not have the right to change their Government peacefully. Let us recall the words written 225 years ago by Thomas Jefferson in our Declaration of Independence:

> When a long train of abuses and usurpations . . . evinces a design to reduce (people) under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

Just as it was important for our ancestors to have the right to throw off the chains of the tyrannical monarchy 225 years ago, it must be the right of the Cuban people to free themselves of the chains of the tyrannical Castro regime.

Let us support the opportunities of the Cuban people to enjoy their

unalienable rights to life, liberty, property, and the pursuit of happiness. Let us not retreat in our opposition to terrorism nor flinch from the advocacy of liberty.

Mr. President, I ask my colleagues in the Senate to support these amendments by Senator SMITH and Senator TORRICELLI. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks seated at my desk.

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

Mr. DORGAN. Mr. President, will the Senator yield for me to make a unanimous consent request?

The PRESIDING OFFICER. Will the Senator yield for a unanimous consent request?

Mr. HELMS. Certainly.

Mr. DORGAN. The Senator is very courteous. I have been waiting some while to speak. I ask unanimous consent that I be recognized to speak following the remarks of the Senator from North Carolina.

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

The Senator from North Carolina.

Mr. HELMS. Mr. President, I think I may be the only Senator now a Member of this body, or maybe one or two or three, who remembers when Edward R. Murrow and Herbert Matthews portrayed a young man out in the boondocks of Cuba as being a humanitarian who was ready to come into Cuba and save the Cuban people. That young man's name was Fidel Castro. Night after night, CBS repeated that fiction. Morning after morning, the New York Times repeated that fiction. And finally, Fidel Castro came in after Batista left.

The first thing he did was to take up all the guns of the people who were politically opposed to him.

The second thing he did was jail most of them.

The third thing he did was to back the rest of them up against a wall and end their lives before a firing squad.

I say all this because so much fiction has been circulated about Fidel Castro, and so much cruelty is being heaped upon the farmers of North Carolina, giving them hope that they can get financial gain from making their crops available to the people of Cuba.

I wish it were so, but it is not so. The Cuban Government, as has already been discussed this afternoon, is not prepared to pay for anything. It is bankrupt.

As has been said here this afternoon by two or three of the distinguished speakers, Cuba has been identified on the State Department's so-called State Sponsors of Terrorism List for very good reason. Not only has the State Department documented evidence that Fidel Castro provides aid and comfort to the terrorists, but there is also clear evidence that Castro has close ties to insurgent groups and other government sponsors of terrorism all around the world.

Fidel Castro maintains connections with guerrillas in Colombia, Spain's Basque separatists, the Irish Republican Army, and so on.

Today nearly 100 terrorists and fugitives from United States justice enjoy safe haven in Cuba. Most of these fugitives are airline pirates and airline hijackers. Among the terrorists being shielded by Castro are members of Puerto Rican terrorists, which includes terrorists on the FBI's most wanted list. One of the fugitives was the lead bombmaker responsible for several terrorist attacks, including a New York bombing that killed 1 and maimed 60 others.

I am sure Senators recall that in 1996 it was Fidel Castro who ordered that two unarmed civilian U.S. aircraft be shot down, and they were. They were shot down over international waters. I know Senators have not forgotten that it was this savage act of terrorism that united the Congress of the United States and the White House in opposition to the terrorist state of Havana.

The Cuban regime trades in information it collects on United States activities through a deeply entrenched spy network in the United States. Just after the September 11 attacks, for example, the Federal Bureau of Investigation arrested a high ranking U.S. Defense Intelligence Agency official who was passing sensitive national security information to Castro's government. There should be no doubt that this traitor would have continued to funnel information to Cuba and, therefore, our enemies in the war against terrorism around the world. The FBI acted quickly to shut down this dangerous leak, even as U.S. troops headed into battle as a result of the episodes on September 11.

Despite all of this evidence, there are still some Senators who are attempting to help the terrorist state of Havana to fill its coffers with U.S. dollars. If financing restrictions are lifted, it is an absolute certainty that a great many additional American dollars will give Castro's regime the means to enhance cooperation with our terrorist enemies and fuel its cruel repression of the Cuban people.

If we had the time, I would outline facts that are known and are part of the Foreign Relations Committee books. Women, doctors, and lawyers are having most of their income taken from them by Castro's government, and a lot of these women have no choice that they can see in order to feed their families but to subject themselves to prostitution. This is the kind of man Fidel Castro is.

Senators who seek United States financing for United States businesses which hope to do business with Havana do not seem to want to discuss the fact that Cuba could not be more hostile to private business interests or more unreliable in paying its bills.

The Cuban Government has without compensation expropriated more United States property from United States citizens than any other government in the world. No other government is even close to Cuba.

The Cuban economy is one of the most repressed economies in the world and features an appalling lack of workers' rights, no protection for private property rights, no provision for international arbitration of disputes, and no enforcement of contracts.

This point needs to be underscored. The Cuban Government does not pay its bills. The Cuban Government has more than $12 billion in hard currency debt. Earlier this summer, France froze $175 million in short-term trade cover for Cuba after the Castro government defaulted on a similar agreement in the year 2000. When the record is reviewed regarding this year alone, it will be clear that governments and companies from South Africa to Panama to Chile and Spain are complaining that the Cuban Government is not paying its bills. Now, how would any Senator be eager for their home State businesses, including especially their farmers, to assume the risk of doing business with the Castro regime?

I don't need to remind this Senate that our country is at war with terrorism. This is not the time for the Senate to make unilateral discussions and concessions to a faltering dictatorship and a known identifiable terrorist state. That is the most foolish kind of appeasement.

President Bush's administration has stated its strong opposition to repealing the financing restrictions on sales to Cuba: "Because of Cuba's continued denial of basic civil rights to its citizens as well as its egregious rejection of the global coalition's efforts against terrorism . . ."

I urge my colleagues to stand with President Bush in the fight against terrorism. Support the Torricelli amendment.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized.

Mr. DORGAN. I am happy to yield to the Senator from Arizona for an inquiry, without losing the right to the floor.

The PRESIDING OFFICER. Without objection, the Senator yields for an inquiry.

Mr. MCCAIN. I ask unanimous consent I be recognized following the Senator from North Dakota.

The PRESIDING OFFICER. Is there an objection?

Mr. ALLARD. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, there has been a generous amount of debate about this subject, and an interesting debate it is. However, let me put in a word on behalf of family farmers in our country who would say to you "don't

use food to punish people; don't use food as a weapon.''

That is what this issue is about. Let me stipulate to all what has been said about Cuba or Castro or terrorism. Let me stipulate to all of it, and then ask you the question: When you use food and medicine as a weapon against a country, any country, what on Earth have you accomplished when the day is done? What have you accomplished?

We have had a vote in the Senate on this subject before. Over 70 Members of the Senate said we ought not use food and medicine as a weapon. We ought not, in the conduct of foreign policy, trying to punish some other country, use food and medicine. It is unseemly. It is wrong. It is not the moral thing to do. Over 70 Members of the Senate have already voted on that.

Did we get it done? No, because it got hijacked in a conference with the House of Representatives on two occasions. So we opened up a small crevice, that some food can go to Cuba under certain conditions provided there is no public financing and no US private financing. So you have no public financing, no capability of getting private financing, and some food can go to Cuba if someone goes to Europe and gets financing, gets a license and has to wait on a ship for 2 weeks, and in the event of a hurricane, we send some corn to Cuba, as we finally did yesterday.

Because 70 Members of the Senate have already expressed themselves on this issue, someone listening to this debate earlier would believe because four or five people have spoken about it in passionate terms, this issue is about stopping terrorism in its tracks, about punishing the Castro government, punishing the government of Cuba. I have no truck for Fidel Castro and his government. What I do care about is the ability of our family farmers to be able to move food around the world to hungry people. That is what this is about.

How often do we continue to use food as a weapon? It is one thing to shoot yourself in the foot. It is quite another thing to take aim before you shoot. That is exactly what has happened here, time and time and time again. Maybe we ought to have a little clear thinking about what we are doing.

Restrictions on food sales to Cuba are not going to punish Fidel Castro. What they do is punish poor people, sick people, hungry people, and kids. Everyone knows it. That is why 70 percent of the Senate has already voted to say this is a policy that doesn't work.

I was in Cuba. Many Members have been to Cuba. I was in a hospital in Cuba, in an intensive care ward where a little boy was in a coma. He had been in a bicycle accident. He was severely injured and was in a coma, lying in the intensive care unit, without one piece of equipment, without one machine attached to him. Why? Because they didn't have any. In that particular hospital, they told me they were out of 240 different kinds of medicine.

Yet the policy advocated by those that push this amendment is we should continue to use medicine as an instrument of punishment against Fidel Castro or the Cuban Government. This is not about Fidel Castro or the Cuban Government. It is about kids in hospitals. It is about kids who are hungry. It is about family farmers in North Dakota who are told time and time again: ''By the way, we intend to use your wheat fields as an instrument of foreign policy, and we are not going to pay for it.''

It is easy to put on a blue suit in the morning and come to the Senate and decide you want to use a field of wheat in Nebraska as an instrument of your foreign policy and say you can't sell that wheat to this country or that country. We are familiar with embargoes. We have had too many. We ought never have an embargo on food. Hubert Humphrey, many years ago, said: ''Sell them anything they can't shoot back.''

So they are going to shoot corn back at us, are they? All these restrictions do is hurt kids and hungry people. Does anybody in this Chamber want to stand up and tell me because we had a 40-year embargo and we have decided we will cut Cuba off from being able to purchase or achieve a food shipment from the United States, that Fidel Castro has ever missed a meal? Does anybody believe he has missed a meal? If so, which one? Breakfast? What day? Dinner? Lunch? I don't think so. We know better than that. Those who govern in Cuba have never missed a meal because we decided to use food as a weapon. It is the hungry, the sick, and poor people that get hurt with embargoes. And America's family farmers get hurt with embargoes.

We get all the agents of change that come to the Senate on virtually every issue except this: 40 years of a policy that doesn't work. We know it doesn't work. The biggest excuse Castro has for the total collapse of the Cuban economy is that he says the American Government has its fist around the Cuban economy's neck. That is what causes these problems. That, of course, is pure nonsense. But that is what he uses.

The quickest way to get Castro out of power is to open that country up, eliminate this embargo, see the investments go into Cuba. They are going in now from Europe. If we stop this embargo, Castro would have an awful tough time holding on to power.

Aside from that, there is a narrower question. Should part of the embargo be food shipments and medicine shipments to Cuba? The answer is, no.

Let me ask a question: Are we able to ship food to Communist China? I say Communist China because China is a wonderful, big country, a big trading partner of ours. I say ''wonderful'' because we have spent a lot of time negotiating with them. We have treaties with them. But it is a Communist country, isn't it? Has anybody come to the floor of the Senate talking about cutting off food to China, a Communist country?

Let me ask the question, when China was selling missile technology to Iran, did anybody rush down to the floor of the Senate talking about cutting off food to China? No. No, you won't hear about that. Nobody will do that.

How about North Korea? Is there anybody rushing to the floor to talk about cutting off food to North Korea, a Communist country? Is anybody rushing around with their Vietnam amendment to cut off food to Communist Vietnam, a country that is a wonderful country, coming out from behind the curtain with a market system, but still a Communist government? Is anybody rushing to see if we can cut off food to a country that is run by a Communist government?

No, the only country in the world in which we prohibit by law private financing—not public, private financing—to ship food, the only country in which we prohibit private financing to ship food is Cuba. We can do private financing and ship food to China. We can do it to North Korea and Vietnam. I can go down a long list of countries that are depicted as terrorist countries, but nobody is on the floor saying we have to stop this. We have to start using food and medicine as a weapon to stop this. No one is saying anything about that.

Why? This is about Cuba only. Let me stipulate again to all that which has been said before me. I don't know how much of it is true. I suspect a fair amount of it is true. It is a repressive government. It is not a government chosen by the people of Cuba. It jails dissidents. But it is interesting, if you go to Cuba and talk to the dissidents in Cuba, they will tell you the embargo is counterproductive. A good many dissidents believe a good way to get rid of Fidel Castro is to get rid of the embargo.

Those who believe we ought not be able to ship food to Cuba, even financed privately, ought to explain to us why we ought to be able to ship food to China, North Korea, Libya, and the rest of the world, through private financing. Why? Is it all right to ship food through private financing to the country of Iran? Yes, with a license. But not Cuba. Why?

It is interesting to me. It seems to me we are so blinded we cannot think our way out of this fog. I have spoken on the floor a number of times about the restrictions on travel to Cuba. We are not debating that today, but those restrictions are absurd also, just absurd. You can travel anywhere else in the world, but you can't travel to Cuba.

Let me tell you about a little old lady in the State of Illinois, retired, responding to an advertisement in a Canadian travel magazine, a biking magazine. She decided she wanted to bike. The Canadian bicycle club was sponsoring a bicycle tour of Cuba for 8 days. She signed up. She is retired, living in Illinois, loves to bike, and wanted see Cuba. She went to Cuba, had a wonderful bicycle trip, and came back.

Eighteen months later, from the U.S. Treasury Department, she got a $9,600 fine for traveling in Cuba. So we have the Office of Financial Assets Control in Treasury tracking little old ladies in Illinois riding bicycles in Cuba while we have terrorists plotting to fly airplanes into the World Trade Center. Obsessive? I think so.

Maybe we can find our way out of this public policy mess if we just think through it clearly. It seems to me we ought to decide, every one of us, that we should not use food or medicine as a weapon.

I understand the Senator from Arizona wishes consent to be recognized. I ask unanimous consent he be recognized following my presentation.

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

Mr. DORGAN. Let me make one final point. We have been stuck in reverse with respect to policy for decades. The Senate has spoken on this issue; 70 Senators said using food and medicine as a weapon is absurd. Let's change the policy. So we are going to have a vote today. I hope the vote today will reflect what the Senate has previously reflected on this issue. This is not about Fidel Castro. It is not about the Cuban Government. It is about being able to ship food as we do to every other country in the world with private financing: Iran, Libya, North Korea, China, and on and on and on. Except this absurd proposition that with private financing we cannot ship food to the country of Cuba. It makes no sense. Everyone in this room understands it and knows it and it is time to change it.

Mr. SMITH of Oregon. Mr. President, I rise today as a cosponsor of both Senator BOB SMITH's and Senator TORRICELLI's amendments regarding the Cuban Government. These amendments are simple and straight-forward Senator SMITH's amendment provides for Presidential certification that Cuba is not involved in acts of international terrorism as a condition precedent to agricultural trade with Cuba. Senator TORRICELLI's amendment would provide similar certification that all convicted felons living as fugitives in Cuba be returned to the United States prior to the amendments relating to agricultural trade with Cuba.

The pattern of refuge and support that Cuba provides for fugitives wanted in other countries is quite troubling—many of these fugitives are members of outlawed terrorist groups. History is quite clear regarding Castro's links to international terrorist groups—these include Colombian and Salvadoran guerilla groups, the Chilean MIR and even the PLO. Our own State Department has presented irrefutable evidence that Castro has been involved in drug trafficking to provide arms and cash to support guerilla movements.

Due to the closed and repressive nature of Castro's Cuba, the transit of international criminals and terrorists is difficult to track. I strongly believe that this Nation needs to have some certification regarding terrorists in Cuba and the harboring of fugitives in Cuba.

As we advance our Nation's war on terrorism, it is interesting to note Fidel Castro's speech in Tehran, Iran, recently. Castro told Iranian students that the United States was an imperialist king that would fall just as the U.S.-backed Shah of Iran fell in the 1979 revolution. He said:

> you destroyed the strongest gendarme of the region . . . and the people of the region should thank you for that . . . However this Imperialist King will finally fall, just as your King was overthrown.

I urge all my colleagues to support these amendments and look forward to a day when democratic values reign in a free and democratic Cuba.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2598

Mr. MCCAIN. Mr. President, I send an amendment to the underlying bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Arizona [Mr. MCCAIN], for himself, Mr. GRAMM, and Mr. KERRY, proposes an amendment numbered 2598.

Mr. MCCAIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for the market name for catfish)

At the end of the underlying bill, insert the following:

SEC. . MARKET NAME FOR CATFISH.

The term ''catfish'' shall be considered to be a common or usual name (or part thereof) for any fish in keeping with Food and Drug Administration procedures that follow scientific standards and market practices for establishing such names for the purposes of section 403 of the Federal Food, Drug, and Cosmetic Act, including with respect to the importation of such fish pursuant to section 801 of such Act.

SEC. . LABELING OF FISH AS CATFISH.

Section 755 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, as repealed.

Mr. MCCAIN. Mr. President, we will have additional time, I am sure, after the cloture vote and perhaps I may even make a tabling motion, depending upon the parliamentary situation on this issue. But it is very simple. The amendment was an amendment slipped into the 2002 Agriculture appropriations bill as part of a managers' amendment.

I still remember very clearly, it was in the evening. We were about to vote final passage. I said: Wait a minute; has anybody seen the managers' amendment? There was dead silence. There were maybe 50 or 60 Members here. So I said: We really should look at the managers' package. Everybody grumbled, so I relented.

It turned out there were 35 amendments, 15 of them specific to members of the Appropriations Committee. One bans catfish, basically bans catfish from being imported into the United States of America, without debate, without discussion, without knowledge until the next day after the bill was passed.

Again, the remarkable degeneration of the parliamentary system that is taking place as we address appropriations bills is remarkable. Think of it: 35 amendments, no one knowing what they are. We all voted aye. One of them fundamentally affected a trade agreement that had just been completed between the United States of America and Vietnam.

This is happening all the time. We find amendments slipped in which affect national policy, which affect, in the case of the North American Free Trade Agreement, commerce as far as Mexican trucks are concerned. There was legitimate debate on both sides but—what? It was put into an appropriations bill. Time after time after time. This is another dramatic example of it.

It is entertaining. We will get to talk about it a lot. But this is a provision, as I say, which was added without debate, discussion, or knowledge of the Members that basically calls catfish from this country catfish and catfish from any other part of the world not catfish. Remarkable.

According to the Food and Drug Administration and the American Fisheries Society, the Pangasius species of catfish is imported from Vietnam and other countries as ''freshwater catfishes of Africa and southern Asia.'' Existing regulations required imported catfish to be labeled differently from catfish grown domestically so consumers can make informed choice about what they are eating. Yet the Agriculture appropriations language overturns these regulations by allowing only North American catfish growers to call their catfish ''catfish'' and prohibits catfish from any other country being labeled as such. Remarkable.

This was commented on by several newspapers and magazines. Also, by the way, there was an advertising campaign mounted against catfish. According to the Far Eastern Economic Review, in its feature article on this issue:

> For a bunch of profit-starved fisherfolk, the U.S. Catfish lobby had deep enough pockets to wage a highly xenophobic advertising campaign against their Vietnamese competitors.

This protectionist campaign against catfish imports has global repercussions. Peru has brought a case against the European Union and World Trade Organization because the Europeans have claimed exclusive rights to the use of the word ''sardine'' for trade purposes.

As a direct consequence of the passage of this restrictive catfish labeling language in the Agriculture appropriations bill, USTR has withdrawn its

brief supporting the Peruvian position in the sardine case against the European Union because the catfish provision written into United States law makes the United States guilty of the same type of protectionist labeling scheme for which we have brought suit against the Europeans in the WTO.

Sooner or later, we are going to have to stop legislating on appropriations bills. Sooner or later, we are going to have to stop giving away to special interests, and we are going to have to have campaign finance reform.

I would be very interested in hearing the campaign contributions made by this catfish lobby in past and present political campaigns.

We have to stop the kind of protectionism which will destroy free trade on which America's economy is built and maintained. We are seeing example after example and case after case of protectionism creeping in but not through open and honest debate. If the supporters of this amendment thought it was a good amendment, why couldn't we have brought it up and had open and honest debate and amendments? No. It was snuck in a managers' package, the most disgraceful practice—the most disgraceful is putting it in the conference report. That is the worst. The second worst is putting it in the so-called managers' package. Usually, it is late at night.

I stray from the subject a bit, but if you think we have had fun, wait until you see the DOD appropriations bill. Wait until next Friday when everybody is going to want to get out of town because Christmas is coming and the last train is leaving. It is going to have more Christmas trees on it than the North Pole. It will be a remarkable document. But I intend to be here and make sure that at least the American people know what is in it.

Putting an amendment that affects trade relations, trade agreements, and fundamental issues of free trade into a managers' package is the kind of conduct that causes the American people to lose confidence in their elected representatives.

I don't mind open and honest debate. I wouldn't mind losing an open and honest debate. I do mind on the part of my constituents and the American people that this kind of amendment gets the attention it has received.

I know it is almost time, according to the unanimous consent agreement, for the cloture vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, let me explain very briefly to our colleagues what we hope to do.

The Senator from Kansas and the Senator from Oregon have an amendment that has been agreed to. They would like 2 minutes on a side to present it. Immediately following that, I will make a unanimous consent request that would allow us the opportunity to consider and debate the defense authorization conference report between now and 5:30. At that time, we will have the cloture vote, then the Department of Defense authorization conference report vote, and then a vote on a judge, all stacked, from 5:30 to whatever time following that.

Following those votes, if Senators wish to offer additional amendments on the farm bill, they are certainly entitled to do so.

Mr. LOTT. Is the majority leader propounding that unanimous consent request at this time or are you going to wait until after this?

Mr. DASCHLE. Actually, I now have the text.

Mr. LOTT. If you would be willing to do it now, we would get on to this issue quicker.

UNANIMOUS CONSENT REQUEST

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate, immediately following the disposition of the amendment to be offered, turn to the consideration of the conference report to accompany S. 1438, the Department of Defense authorization bill; that when the report is considered, it be considered under the following limitations; that there be 75 minutes for debate, with time controlled as follows: 45 minutes for the chair and ranking member or their designees; and 30 minutes under the control of Senator BYRD; that upon the use or yielding back of time, without further intervening action, the Senate proceed to vote on adoption of the conference report following a vote on the motion to invoke cloture on the Harkin substitute amendment to S. 1731; that upon adoption of the conference report, the Senate then turn to the conference report to accompany H.R. 2883, the intelligence authorization; that the conference report be considered agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate; provided further that H. Con. Res. 288, a concurrent resolution providing for a technical correction in the enrollment of S. 1438, be considered and agreed to, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, let me just say that I will not object. I think this is a reasonable arrangement. I want to explain, though, why we are doing this. We were scheduled to have a vote at 4 o'clock on the cloture motion. We had at least a couple Senators who were unavoidably delayed, and we would want to accommodate that under these conditions. This allows us to move forward on the Defense authorization bill, which we need to do, and that we would have the vote on the cloture motion that was scheduled for 4 o'clock at 5:30, as I understand it, followed by the vote on the defense authorization conference report, followed by a vote on a judge—stacked votes.

For those of you who are worried about agriculture, as I understand it, don't worry, because everything will be at this point when we, if and when, come back to it. But this is to accommodate as many Senators as possible while getting a vote on the very important defense authorization bill and a vote on the cloture motion on the agriculture bill.

Mr. McCAIN. Reserving the right to object.

Mr. LOTT. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Reserving the right to object.

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. It is a good thing this is the Defense authorization conference report or I would object. I do not intend to permit anything else to interrupt this farm bill until we finish it. It is defense. It is important for our country, so I will not object. I just want to put everyone on notice, that is it. Once we get back on the farm bill, we will be on it. I will object to going off this farm bill for anything else other than the defense of this country. I just want to make it clear.

Secondly, I want to ask my leader about tonight. We are going to have these three votes. We have had some amendments. We have some amendments ready to go tonight. I want to know if it is the intention to have the Senate stay in session tonight and to have votes, to debate amendments and have votes tonight to move this farm bill forward. I would just like to know if that is what we are going to do.

Mr. DASCHLE. I would be happy to respond to the Senator from Iowa.

This does not preclude additional consideration of amendments or votes tonight.

Mr. HARKIN. So there will be votes tonight, if, again, Senators offer amendments and we debate them? We can have votes tonight on further amendments to the farm bill?

Mr. DASCHLE. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Just to clarify what was said, Senator HARKIN said that there will be more votes tonight. That is not what Senator DASCHLE said. He said this does not preclude that. We have our normal rights for full debate, and we have to work out agreements to when we would vote, ordinarily. So I am not saying there will not be votes, but I just do not want to leave the wrong impression.

Mr. HARKIN. So I guess what I read into that, if the Senator will yield, is that it is the Senator's intention not to have any votes tonight?

Mr. LOTT. I don't want to make any more profound statement on this subject than Senator DASCHLE did. I would want to consult with him. No final decision or announcement has been made on that.

Mr. MCCAIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I reserve the right to object. Because of intentional and unintentional parliamentary procedures, I have not been allowed to propose my amendment before the vote on cloture. If cloture is invoked, then I may not be able to have this amendment be germane.

So I ask unanimous consent that that unanimous consent agreement be amended that my amendment be made in order to the Daschle substitute, as several other amendments have been made in order, in the event of the invocation of cloture.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

Mr. MCCAIN. Then I object to the unanimous consent request. I think I should be allowed to propose and have debate on an amendment to the bill.

The PRESIDING OFFICER. Objection is heard.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle for Harkin substitute amendment No. 2471 for Calendar No. 237, S. 1731, the farm bill:

Tim Johnson, Harry Reid, Barbara Boxer, Tom Carper, Zell Miller, Max Baucus, Byron Dorgan, Ben Nelson, Daniel Inouye, Tom Harkin, Kent Conrad, Mark Dayton, Debbie Stabenow, Richard Durbin, Jim Jeffords, Tom Daschle, and Blanche Lincoln.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the substitute amendment No. 2471 to S. 1731, a 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, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 368 Leg.]

YEAS—53

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

NAYS—45

Allard	Fitzgerald	Murkowski
Allen	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hutchison	Specter
Craig	Inhofe	Stevens
Crapo	Kyl	Thomas
Daschle	Lott	Thompson
DeWine	Lugar	Thurmond
Ensign	McCain	Voinovich
Enzi	McConnell	Warner

NOT VOTING—2

Domenici	Murray

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. I move to reconsider the vote.

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

Mr. President, I withdraw my motion.

The PRESIDING OFFICER. The motion is entered.

ORDER OF PROCEDURE

Mr. DASCHLE. There has been a good deal of discussion during the vote on how to proceed. I think we may have reached an agreement, a consensus on how to complete the agreement that would be in most people's interests and accommodating most schedules; that is, if we voted on the defense authorization conference report right now.

As I understand it, the chair of the committee, the chair of the Appropriations Committee, as well as the chair of the defense authorizing committee and ranking member are prepared to speak about the conference report for the record and share with Members its many component parts immediately following the vote.

I ask unanimous consent that the defense authorization conference report be brought before the Senate and the Senate vote on its final adoption.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object—I do not intend to object—I want Senators to know I intend to vote against this conference report, and I will explain why because I understand the problems that confront the leader and I am very willing to wait until after the vote to make that statement.

Mr. MCCAIN. Reserving the right to object, is it the intention of the majority leader to return to consideration of the agriculture bill?

Mr. DASCHLE. The Senator from Arizona is correct.

Mr. MCCAIN. I ask that, following the Wyden-Brownback amendment, the McCain-Gramm amendment be considered.

Mr. DASCHLE. For clarification, we will have the discussion about the defense authorization conference report. Immediately following that, it will be my intention to go back to the farm bill. I think there was some understanding that we recognize the Senator from Kansas and the Senator from Oregon for a brief period of time for an amendment that I think has been agreed to, and then it would be our intention to move to the amendment offered by the Senator from Arizona.

Mr. LOTT. Reserving the right to object, if I could, just for one clarification, if Senator DASCHLE would clarify, will we have the vote on the judge that had been scheduled in this back-to-back vote?

Mr. DASCHLE. That would be my intention, that we would.

Mr. LOTT. I withdraw.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. I ask, in addition to the current unanimous consent request, that immediately after debate on the amendment of the Senator from Arizona, we then turn to the debate on the amendment as offered by Senator SMITH of New Hampshire and Senator TORRICELLI of New Jersey.

Mr. DASCHLE. That will be made part of the request.

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to be clear as to what the Senator from Florida is asking. Senator BROWNBACK and I intend to be very brief. Is it the understanding of the Senator from Florida that we can dispose of that very quickly and then go back?

Mr. GRAHAM. As I understand it, if this unanimous consent agreement is accepted relative to the farm bill, the Senator from Oregon would be first, the Senator from Arizona would be second, and then consideration of the Smith-Torricelli amendment would be third.

Mr. WYDEN. I withdraw my reservation.

Mr. WARNER. Have the yeas and nays been ordered on the defense authorization conference report?

The PRESIDING OFFICER. The conference report has not yet been put before the Senate. The yeas and nays are not in order at this point.

Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, prior to the time we move to the conference report, there is one other housekeeping matter. It is always in keeping with our practice that the intelligence authorization and the defense authorization are considered jointly. I am told that I need to make the following request: That the conference report to accompany H.R. 2883, the intelligence authorization, be considered agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, provided that H. Con. Res. 288, the concurrent resolution providing for a technical correction in the enrollment of S. 1438, be considered agreed to, and the motion to reconsider be laid upon the table without intervening action or debate.

I would just say, for the information of all my colleagues, this is done as we take up the Defense authorization bill. I made this request earlier, and I am simply repeating it now for the colloquy.

Mr. President, I ask unanimous consent when the Senate considers the Executive Calendar nominations, the first vote occur on Calendar No. 590, to be followed by Calendar No. 589 and Calendar No. 592, and that their consideration occur following this next vote.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—CONFERENCE REPORT

The PRESIDING OFFICER under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1438) ''to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes,'' having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

(The report is printed in the House proceedings of the RECORD of December 12, 2001.)

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the Conference report. The clerk will call the roll.

Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mrs. MURRAY) would vote ''aye.''

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

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

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—96

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

NAYS—2

Byrd	McCain

NOT VOTING—2

Domenici	Murray

The conference report was agreed to.

Mr. WARNER. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

The committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2883) ''authorizing appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes,'' having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

(The report was printed in the House proceedings of the RECORD of December 6, 2001.)

The PRESIDING OFFICER. Under the previous order, the conference report on H.R. 2883, the intelligence authorization bill, is adopted, the motion to reconsider is laid on the table; and H. Con. Res. 288, correcting the enrollment of S. 1438, is adopted and a motion to reconsider that action is laid upon the table.

EXECUTIVE SESSION

NOMINATION OF FREDERICK J. MARTONE, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. The Senate will now go into executive session and proceed to the nomination of Frederick J. Martone, of Arizona, which the clerk will report.

The legislative clerk read the nomination of Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this nominee has the support of both Senators from his home State. Blue slips have been returned by both of them. We have had the hearing. He did very well.

The Senator from Arizona, Mr. KYL, is a valued member of the Judiciary Committee, and I would like to yield to him, as he is one of those who has proposed and supported this nominee.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Vermont, the chairman of the committee, and thank him for having Justice Fred Martone as one of the judicial nominees we will be voting on this evening. I understand the only rollcall vote will be on Justice Fred Martone.

Why do I call him Justice Fred Martone, when we are going to be voting on his confirmation to become a

Federal district judge? The answer is, because he currently is one of the five justices on the Arizona Supreme Court, the highest court in the State of Arizona. He is a graduate of Holy Cross, Notre Dame Law School, and has an advanced degree from Harvard, and is an exceptionally fine jurist.

I thank the chairman and members of the committee who unanimously approved him for consideration by the full Senate. I would appreciate the support of the full Senate for his confirmation.

Mr. HATCH. Mr. President, I am pleased that the Senate is considering this afternoon three extremely well-qualified nominees for important positions in the Federal judiciary. I have no doubt that they will do great service for the citizens of this country upon confirmation.

The Honorable William Johnson has been nominated to be a Federal judge in the District of New Mexico. Born and raised in Roanoke, VA, Judge Johnson attended Virginia Military Institute and law school at Washington and Lee University. He began his career practicing law in Houston, TX, and then moved to Roswell, NM, where his practice included commercial litigation, bankruptcy cases, and oil and gas litigation. Since 1995, he has served as a State district judge hearing domestic relations, child support enforcement, civil, criminal, and administrative agency cases. With such wide-ranging judicial experience under his belt, Judge Johnson comes to the Federal bench ready to hit the ground running.

Like Judge Johnson, the Honorable Frederick J. Martone is no stranger to the bench. Justice Martone currently serves on the Supreme Court of Arizona. Before then, he served as a judge on the Superior Court in Maricopa County. Although he has spent his professional life in Arizona, Justice Martone was educated further east: He graduated from Holy Cross College, from Notre Dame Law School, and earned an LL.M. from Harvard Law School. His demonstrated experience and judgment will make him a fine addition to the Federal district court for the District of Arizona.

Clay D. Land, our nominee for the Middle District of Georgia, has had an impressive career blending private practice and public service. Upon graduating *cum laude* from the University of Georgia law school, Mr. Land returned to his home town of Columbus, GA, where he has maintained a successful general civil practice ever since. His legal practice has not dampened his commitment to public service, however. In 1993, he served as chairman of the Georgia Indigent Defense Council, which is responsible for oversight of the funding and implementation of the State's indigent criminal defense programs. From 1993 to 1994, he served on the Columbus City Council. And from 1995 to 2000, he served as a Georgia State senator.

I want to commend President Bush on his selection of such outstanding candidates for the Federal judiciary. Each of these nominees was unanimously approved by the Judiciary Committee, and I expect that they will receive similar treatment from the full Senate. I urge my colleagues to join me in supporting their nominations.

Mr. LEAHY. Mr. President, the nominee is supported by both the Senator from Utah and myself; and we had a unanimous rollcall vote in support of the nominee in the committee. And I strongly urge a unanimous rollcall vote in support of the nominee here.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) and the Senator from Illinois (Mr. DURBIN) are necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 370 Ex.]

YEAS—97

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

NOT VOTING—3

Domenici	Durbin	Murray

The nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, what is next on the agenda?

NOMINATION OF WILLIAM P. JOHNSON, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO

The PRESIDING OFFICER. The clerk will report Calendar No. 599.

The legislative clerk read the nomination of William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I thank the Chair.

Mr. President, I thank the distinguished majority leader, Mr. DASCHLE, and the distinguished deputy majority leader, Mr. REID, who have worked so hard to get these nominations on the calendar so we can vote on them.

William Johnson is the third Federal judge confirmed from New Mexico in just the past few weeks. We expedited the consideration of Christina Armijo in October, who was confirmed last month; likewise, Harris Hartz, President Bush's nominee to the Tenth Circuit from New Mexico. I had a hearing at the end of October, and he was confirmed last week. All three of these nominees came to us with the strong support of both Senator DOMENICI and Senator BINGAMAN.

I mention this because it is so helpful to our committee when the White House takes time to consult with both Senators from the home State and get their support. We got this kind of consensus: When we confirm Mr. Johnson, we are going to fill another judicial emergency vacancy. After that, we are going to another nominee, Clay Land, who has been supported by Senators CLELAND and MILLER. I mention this because if we confirm both these next 2, we will have confirmed 27 Federal judges since July, when I took over the chairmanship, and 6 court of appeals judges.

To put that in perspective, since July, in those 5 months, we have confirmed as many as we confirmed all of the first year of the last President's administration—actually, a lot more judges in the courts of appeals.

Everybody has been working very hard. I also mention to my colleagues, this morning we were finally able to get a quorum in the Judiciary Committee. We had 10 nominations go through, 5 of them judges, 5 other nominations from the Department of Justice, all of which will go now on the calendar.

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

Mr. LEAHY. Of course.

Mr. REID. When did the Senator take over as chairman of the Judiciary Committee?

Mr. LEAHY. I had a fully constituted committee I think it was in late July.

Mr. REID. It is my understanding that following September 11, the Senator and his staff literally worked night and day for how long before the

committee came up with an antiterrorism bill?

Mr. LEAHY. We worked several weeks. It really was night and day. We had people going home at 2 o'clock in the morning and coming back at 5 o'clock in the morning to do that. I was getting e-mails at home at 3:30 in the morning from members of my staff and continued to do that until we got that bill out.

Mr. REID. Will the Senator also answer this question: It is my understanding the committee's work was hampered as a result of the anthrax problem that occurred in Senator DASCHLE's office and in the Senator's office; is that true?

Mr. LEAHY. The Senator from Nevada is right. We actually had to move much of the Judiciary staff out of the Dirksen Building. Some had been in the Hart Building in the proximity of the distinguished leader's office when the anthrax letter was opened. We were hampered by that because of medical treatment and still came to work.

In fact, we went so far, as the Senator probably knows, as to hold hearings during the recesses to keep this going.

Mr. REID. I was going to ask the Senator if he remembers another time when hearings were held regarding judges and other judicial matters during recess periods?

Mr. LEAHY. I have only been on the committee 25 years, but I cannot remember a time during those 25 years—in fact, the Senator from Nevada may be interested in this. Maybe he was involved in this. Does the Senator recall the day that part of the Capitol Building was evacuated because of the anthrax scare and all the other buildings were evacuated? The distinguished Senator from West Virginia made available his conference room in the Appropriations Committee. We held hearings in that conference room on more judges as the building was being evacuated and held a markup in executive session with 150 of us crowded into one room in the back, the President's Room, to get even more judges out which then the distinguished majority leader put on the calendar within, I think, 24 hours of that time and we were voting on them a couple days after that.

Mr. REID. The majority leader is in the Chamber, and I will not engage the Senator in any more dialog. Speaking for the people of Nevada and I think this country, when books are written over what transpired in this critical period of history, there is going to be a chapter on PAT LEAHY and the tremendous job he did. It is precedent setting, and he has set a mark to which others will have to try to adhere.

Mr. LEAHY. That means a great deal to me, and I appreciate that. I appreciate the help of Senators on both sides of the aisle in helping to move this forward.

Mr. DASCHLE. Will the Senator yield?

Mr. LEAHY. Yes.

Mr. DASCHLE. I also commend the distinguished chair of the Judiciary Committee along the lines the assistant Democratic leader has noted. It is important at a time such as this that we recall for the record just what has transpired. The distinguished chairperson has been chairperson now for about 5 months, almost 6 months, and in one-half year's time, he has compiled a record that may at the end of this period actually exceed the number of judiciary appointments confirmed during the Clinton administration in an entire 12-month period of time in 1993. That is quite a remarkable accomplishment to exceed perhaps the number of judicial nominations in 6 months over and above what was confirmed in 1993 under a Democratic administration with, I might add, a Democratic Senate.

Also, as the Senator from Nevada has noted, this has been an extraordinarily difficult time, filled with adversity. September 11, the anthrax attack, not only on the Senate and my office, but on the Senator's office itself—all of the disruption, the need for accelerated efforts on appropriations, and yet through all of that, with all of the work he had to do with counterterrorism, this Senator has very diligently, persistently, and with remarkable leadership brought us to this point.

I publicly commend him, thank him, and tell him how proud I am for his effort and the work he has done to get us to this point.

I yield the floor.

Mr. NICKLES. Will the Senator from Vermont yield?

Mr. LEAHY. Of course, I will.

Mr. NICKLES. Mr. President, to add to some of the statements that were made, I compliment my friend. He has assisted this Senator, and he has assisted other Senators, particularly on district court judges.

If my numbers are correct, I believe we are now at 27 judges confirmed, which equals the number of judges that were confirmed in President Clinton's first year. President Clinton, nominated 47 individuals for judicial positions, and the Senate confirmed 27 of those in his first year.

President Bush has made 64 judicial nominations at a time when there are a great number of vacancies. We have now confirmed 27, and I hope we will confirm some more.

I say to my friend and colleague from Vermont, we have done pretty well on district court judges. However, we are way behind on circuit judges. President Bush nominated eleven circuit court judges in May. Of those eleven, eight have not even had a hearing. One of these nominees is Miguel Estrada, who is a Honduras immigrant who graduated with honors from Columbia and graduated at the top of his law school class from Harvard.

Another is John Roberts, again a Harvard Law School grad. Among his many accomplishments, Mr. ROBERTS has argued 34 cases before the Supreme Court. I might also mention that Mr. Estrada has argued 14 cases before the Supreme Court. Both nominees are eminently qualified.

I wonder if my friend and colleague from Vermont can tell us when we will begin considering or having hearings on some of these exceptionally qualified individuals, both rated unanimously well qualified by the ABA and who have bipartisan support, who were nominated in May of this year?

Mr. LEAHY. Mr. President, the Senator from Oklahoma, my friend, has talked to me about this on several occasions. We are trying to get through these calendars as quickly as we can. As I say, I have only been here as chairman for 5 months. Actually, there were a number of nominees prior to my becoming chairman who never got a hearing at the beginning of this year.

We will have had far more courts of appeals judges than I think have ever been, or I can remember going through in a President's first year in office. We are going way beyond what the Senate usually does. It is certainly a much faster pace than the Senate has had in the last 4, 5, 6 years.

If we can slow down a little bit the things that are happening around here—anthrax, September 11, all the things we wish we did not have—if the chairman of the committee could deal with just a few less death threats—not from my friend from Oklahoma. The anthrax letter did not have an Oklahoma return address, nor would I expect it to.

Mr. NICKLES. I appreciate it.

Mr. LEAHY. We are moving through them. We have done Fifth Circuit Judge Clement, Second Circuit Judge Parker, Fourth Circuit Judge Gregory. I mentioned from New Mexico a circuit judge.

Mr. NICKLES. If the Senator will yield, we have confirmed six circuit court judges, but in this particular instance, the President has made many more circuit court nominees during his first year in office than any recent time in history. In fact, 28 have been nominated. I urge my colleague—and I will stop here—to have more hearings, especially for some of these individuals nominated in May. They are outstanding individuals.

I am more than certain that once they have their hearings, they will be confirmed by an overwhelming majority, both in the committee and on the floor of the Senate. I urge the chairman to have hearings on those individuals as soon as possible.

Mr. LEAHY. The Senator from Oklahoma asks an appropriate question. I can assure him we are trying to move through as many as we can. I hope, for example, the President will nominate more district judges, too. There are about 77 percent district court vacancies; about 77 percent do not even have a nominee. There is a real problem and we will work with the administration.

Some of the slowdowns have been taken care of, as the Senator from Oklahoma knows. We had a number of judges who were held up because the White House did not directly answer the question whether they had been arrested or convicted in the last 10 years. We thought that was at least a worthwhile thing to know for someone getting a lifetime appointment. I think the White House might have realized it made sense and allowed them to answer the question, and it broke a logjam. We had 10 nominations, 5 judges, that went through this morning. My intention is to keep moving as rapidly as we can.

I ask the distinguished acting Republican leader, we could have rollcalls on the next two judges, or if he has no objection, I would ask we do them by voice vote. If he would like rollcalls, that is his right.

Mr. NICKLES. Senators want to get to the Defense authorization bill. There is no reason we cannot. I am sure it is not necessary to have a recorded vote. A voice vote is more than acceptable for the other two judges. I thank my friend and colleague and look forward to having a hearing on Mr. Estrada. Forty-nine Senators have requested a hearing on Mr. Estrada and on Mr. Roberts and other nominees for the circuit court. As soon as we get hearings, it would be much appreciated.

Mr. HATCH. Mr. President, since the topic of the Judiciary Committee's record on judicial confirmations was raised, I would like to take just a minute to make an observation.

As everyone here knows, I do not like to engage in the typical statistics judo that seems to be intrinsic to this issue. But I do want everyone to understand that, despite the progress that was just mentioned, we really have a lot more work to do.

Look at the percentages: The Senate has exercised its advice and consent duty on only 21 percent of President Bush's circuit nominees this year. The other 79 percent of our work remains unfinished. And our overall record is not much better: the Senate has confirmed only 37.5 percent of all judicial nominations we received from President Bush. We will conclude our work by leaving nearly 100 vacancies in the judicial branch.

Now, these facts are not escaping wider attention outside the Judiciary Committee. Last week, Vice President CHENEY sent a letter noting that ''vacancies on the Federal bench are occurring at a faster pace than the confirmations of new judges, and barely one in four of President Bush's nominees has received a hearing and a vote.'' The Washington Post editorialized on November 30 that the committee should hold more judicial nominations hearings, concluding that, ''[f]ailing to hold them in a timely fashion damages the judiciary, disrespects the President's power to name judges and is grossly unfair to often well-qualified nominees.'' And the Wall Street Journal observed on November 27 that there is a ''pattern of judicial obstruction that has left 108 current vacancies on the Federal bench. . . . With only days to go before the Senate adjourns for the year, only 28 percent of George W. Bush's nominees have been confirmed.''

Of course, the reason why people are taking notice is that the process of advice and consent on the President's judicial nominations is not a game. This is not football or baseball, and the goal here is not a particular set of numbers. These are nominations for very important positions in the Federal Government, and it is the Senate's constitutional obligation to review them. Despite the work that we have done, there is simply no escaping the fact that we are about to stop work for the year with a judicial vacancy rate of 11.3 percent, which I believe is unacceptable by any measure. And, by the way, there is absolutely no point in accusing the administration of not sending more nominations to us, when we have made it clear that we will not devote any effort at all to reviewing 30 of the nominations the President did send.

All this being said, however, I have reason to look forward to hitting the ground running next year. The Judiciary Committee's obvious focus on confirming nearly the same number of judges as we did President Clinton's first year, reassures me. After all, during President Clinton's second year in office, the Senate confirmed 100 of his judicial nominees. I fully expect that we will do the same for President George W. Bush, in fact, I take it as a pledge that we will confirm 100 Bush nominees in 2002.

Mr. LEAHY. I did not request a rollcall vote. I ask for a voice vote.

The PRESIDING OFFICER (Ms. STABENOW). The question is, Will the Senate advise and consent to the nomination of William P. Johnson to be United States District Judge for the District of New Mexico?

The nomination was confirmed.

NOMINATION OF CLAY D. LAND, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA

The legislative clerk read the nomination of Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.

Mr. LEAHY. I ask for a voice vote.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia?

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent under the previous order we allow the Senator from Michigan and the Senator from Virginia, Messrs. LEVIN and WARNER, an hour and a half to talk on defense authorization, and Senator BYRD be recognized for half an hour, with Senator BYRD getting the first half hour.

Mr. WYDEN. Reserving the right to object.

Mr. WARNER. Could we clarify that half hour for Senator BYRD?

Mr. REID. It is in addition to the hour and a half.

Mr. WARNER. I defer to the chairman.

Mr. LEVIN. We can do that within the hour and a half, and Senator BYRD, if he wishes, can go first.

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object, I ask the distinguished leader from Nevada, I was under the impression that as to the amendment that has been worked out with Senator HARKIN and Senator LUGAR, I could speak on that for 4 minutes.

Mr. REID. I was going to get this entered, and then when everyone has agreed, prior to going to this matter Senator WYDEN would be recognized for up to 4 minutes on an amendment that has been agreed to on the Agriculture bill.

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

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

Mr. WYDEN. I ask unanimous consent that the amendment I filed with Senator BROWNBACK of Kansas be called up at this time.

THE PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, reserving the right to object, I want to make sure that Senator REID knows precisely what is going on. That is the only reluctance I have. I don't know whether it is even in order without first getting the bill before the Senate and then having the amendment and then setting the bill aside. I want Senator REID to hear your request.

Mr. WYDEN. To restate my request, I ask unanimous consent the amendment I have filed with Senator BROWNBACK of Kansas, that I believe can be disposed of very quickly, be considered at this time.

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

AMENDMENT NO. 2546 TO AMENDMENT NO. 2471

(Purpose: To provide for forest carbon sequestration and carbon trading by farmer-owned cooperatives)

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. BROWNBACK, proposes an amendment numbered 2546 to amendment No. 2471.

Mr. WYDEN. I ask unanimous consent reading of the amendment be dispensed.

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

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

Mr. WYDEN. I will be very brief. I express my appreciation to the Senator from Michigan and the Senator from Virginia.

One of the most serious environmental problems in our country and in the world is the excessive emissions of carbons into the atmosphere. Senator BROWNBACK and I have worked for a number of years together on a bipartisan basis because we believe it is time for the U.S. Congress to begin moving together on a bipartisan basis to deal with this serious environmental problem. Therefore, the amendment we worked out with Senator HARKIN and Senator LUGAR sets up what is known as a carbon sequestration program, a program that allows us to store these carbons in trees, in agricultural products, and in the land.

Our legislation specifically does two things: It allows the research dollars in the legislation to be used by State forestry programs for carbon sequestration. This allows mobilization of various State forestry programs such as we have in Oregon and other States in this country to seriously attack this carbon problem.

Second, our legislation sets up a carbon sequestration demonstration effort which allows private parties to pay farmers and foresters a market-based fee to store carbon and to otherwise reduce net emissions of greenhouse gasses. It would be the first effort to set up a marketplace-oriented system of reducing these carbons.

We are not saying tonight, Senator BROWNBACK and I, that carbon sequestration is the be-all and end-all of dealing with the climate change problem. But it can be a significant tool in our toolbox to reduce global warming. I happen to think that carbon sequestration can be a very significant jackhammer for those who are fighting the climate change issue.

I conclude by thanking Senator HARKIN and Senator LUGAR. This is a chance to bring Americans together—businesses, environmental leaders. It will not cost jobs, it will save money. Look at the costs. It takes between $2 and $20 per ton to store carbon in trees and soil. Emissions reductions can cost as much as $100 per ton. That is why Senator BROWNBACK and I have worked for several years. I believe this legislation can reduce a third of the problems we are having with excessive emissions in our country.

With that, and with thanks to Senator HARKIN and Senator LUGAR, I ask that the amendment be agreed to on a voice vote at this time.

I yield the floor.

Mr. BROWNBACK. Mr. President, today, I join with Senator WYDEN to bring an amendment to the floor on the farm bill which will establish a pilot program for farmer owned cooperatives to measure, verify and trade sequestered soil carbon through agriculture conservation practices. This amendment will authorize $5 million over 5 years to establish a program that will allow our nation's farmers to implement the promise offered by carbon sequestration—a process where crops and trees convert carbon dioxide into stored carbon in the soil. At the same time, this project will provide the Congress with important information about how effective soil carbon sequestration will be in addressing the issue of climate change.

As we set farm policy for the next five years, there are several important areas we have an opportunity to expand. One promising example is in a potential environmental market for farmers—where producers are paid by utilities and other greenhouse gas producers to offset carbon dioxide emissions to ease into CO_2 reductions more cost effectively. Such a market is already being looked at in many sectors, but more information and applied research is needed to answer policy questions surrounding the effectiveness and permanence of carbon sequestration as part of the global climate change solution.

I have introduced 3 bills involving carbon sequestration in this last year. I am pleased that many of these ideas have been embraced by the new farm bill currently on the Senate floor. Many farm conservation practices have been sequestering carbon for years—but we have not adequately been able to measure and capitalize on this promising process.

The new farm bill will contain $225 million over 5 years for carbon sequestration grants to producers and research uninversities to do pilot projects to measure and verify carbon gains. In addition, USDA will become more engaged in measuring and verifying which farm conservation practices store carbon. There will also be continued funding for research through land grant universities—being led prominently by Kansas State University.

In addition, the farm bill contains a grant program of $500 million over 5 years for private enterprise conservation—which includes carbon sequestration activities.

Despite my concerns about many provisions in this farm bill—I am very pleased to see these provisions included. This will build a new market for farmers—one that pays for how they produce, not just what they produce.

The Wyden-Brownback amendment builds on this promise and expands it to help us explore how carbon trading might work by using one of the most trusted friends of the farmer—cooperatives.

Carbon sequestration is a largely untapped resource that can buy us the one thing we need most in the climate 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 advancement 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.

Carbon sequestration can only be one tool in the fight to reduce greenhouse gases in a cost effective way, but it is something we can be doing right now for the benefit of our atmosphere, our water, our soil and our farmers and foresters. There is no downside to supporting this amendment. We advance important conservation goals and begin taking concrete action on one of o ur toughtest environmental challenges.

Not only does this amendment help the environment, it also helps to flesh out the details behind a very promising and potentially lucrative market for farmers and foresters—a market where they would be paid for how they produce, in addition to what they produce.

Early estimates from the Consortium for Agricultural Soils Mitigation of Greenhouse Gases indicate that the potential for a carbon market for U.S. agriculture could reach $5 billion per year for the next 30–40 years.

Mr. President—this is a common sense amendment—which is good for our farmers, good for the environment and could provide a bridge to begin dealing with one of our most challenging environmental problems by applying the market principles to reduce climate change. This is an important first step—which opens the door to a new bi-partisan alliance that will help make real progress on the issue. I urge my colleagues to support the Wyden-Brownback amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon, amendment No. 2546.

The amendment (No. 2546) was agreed to.

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

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

The motion to lay on the table was agreed to.

CONFERENCE REPORT ACCOMPANYING THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—Continued

Mr. LEVIN. I believe under the unanimous consent agreement that has been entered into, we will have a period of, I believe, 2 hours for debate which I hope perhaps will be reduced. In any event, the first half hour was to be under the control of Senator BYRD.

The PRESIDING OFFICER. The Senator is correct.

The distinguished Senator from West Virginia.

Mr. BYRD. Madam President, I thank the Chair and I thank my distinguished colleague, the chairman of the Armed Services Committee.

Madam President, I was troubled by President Bush's announcement this morning to withdraw the United States from the Anti-Ballistic Missile Treaty of 1972. This development has earth-shaking implications for our national security, especially in considering the potential range of reactions from Russia and other nuclear powers, including China. Arms control is bound to become more difficult as these countries work to make sure that their nuclear deterrent can still work when—or if—we successfully deploy an anti-missile system. While bringing us no closer to realizing a workable national missile defense system, withdrawal from the ABM Treaty signals to the world that the United States seeks a dominant, not a stable, strategic nuclear position.

I am not an expert on the technology used in nuclear weapons or ballistic missiles. But I do know that China has twenty missiles capable of delivering nuclear weapons to our shores. China has been satisfied that these twenty missiles provided it a nuclear deterrence against other nuclear powers, including the United States. As a result of this move by the President against the ABM Treaty, I have no doubt that China will seek a larger, more sophisticated nuclear arsenal. Does that make the United States more or less secure? What about our allies and friends overseas?

Does a larger Chinese nuclear arsenal help the President of South Korea sleep at night? What about the Prime Minister of Japan, or even the Prime Minister of Britain? Clearly, our friends have good cause to be concerned about U.S. withdrawal from the ABM Treaty. I do not believe it is an overstatement to say that withdrawing from the ABM Treaty will have serious consequences for our allies, and by extension, on our national security interests.

I also know that many experts on missile technology have grave concerns about how easy it would be to build missiles that can fool a national missile defense system, rendering it useless. Russia has already developed a missile that could pierce our planned missile defense system, even if it worked. And I think that one can bet that China is working on similar technology. If China and Russia, two countries with past records of sending missile technology to the likes of Iran and North Korea, have the technology to fool our missile defense radars, how long do you think it will take for that technology to end up in the hands of rogue states? I understand the President's desire to develop a national missile defense system for the United States. I support that goal, as long as it produces a system that is feasible, affordable, and effective. However, we have no assurances at this point that an effective missile shield can be developed. We are operating on little more than conjecture and speculation. Can a reliable, workable missile shield be developed? We're not sure. How many missiles can a missile shield deflect? Good question. What will it ultimately cost? No idea.

To jettison the ABM Treaty with no replacement agreement in hand and no better understanding of how or whether a missile defense system will work—and that is where we are right now—to bring additional turmoil to a world that is already reeling from the terrorist attacks on America is, in my opinion, a rash and ill-considered course of action.

The United States has been engaged in intensive arms control talks with Russia over the past several months. These talks have focused on two key issues: first, altering the ABM Treaty to allow the United States to increase its missile defense testing, and second, negotiating reductions in the nuclear arsenals of both the United States and Russia. Russia has repeatedly expressed its belief that the ABM Treaty is the ''cornerstone of strategic stability.'' By limiting the development of missiles that could shoot down an opponent's nuclear missiles, the argument goes, both the United States and Russia understood the strategic capabilities of the other—of each other. Indeed, progress in first limiting the nuclear arms of the United States and the Soviet Union was concurrent to progress in limiting the development of anti-ballistic missiles. In the three decades since the ABM Treaty and the Strategic Arms Limitation Treaty were ratified, the United States has been able to reach consensus with the Soviet Union—and later Russia—on the principles of the Strategic Arms Reduction Treaties, commonly known as START, to steadily reduce the nuclear arsenals of both countries.

These arms reduction treaties have slashed the nuclear arsenals of our two countries by over half over the last decade. All the while, the ABM Treaty provided the strategic stability to allow these cuts to occur without threatening the strategic balance between the two nuclear giants.

Senator BIDEN, the chairman of the Foreign Relations Committee, spoke very clearly yesterday on his concerns over a precipitous withdrawal from the ABM Treaty. I thank the Senator for his remarks, and for his valuable insight into this very troubling subject. The Constitution of this Nation deliberately established a clear separation of powers among the executive, legislative, and judicial branches of the Government. Article II, Section 2, gives the President the power to make treaties ''by and with the consent of the Senate.'' There is a reason for that caveat, and the reason is that treaties among nations are enormously important instruments of power. The framers of the Constitution recognized the importance of treaties, and saw the potential danger of allowing any individual to enter into a treaty with another nation. The required acquiescence to any treaty by two-thirds of the Senate is a fundamental part of the checks and balances of our Government.

This is what disturbs me so greatly about the President's announcement of withdrawal from the ABM Treaty without seeking the advice or consent of Congress. And this announcement comes on the heels of the President's declaration a few weeks ago that he is willing to further reduce America's nuclear arsenal on the strength of a handshake from his Russian counterpart, Vladimir Putin, instead of pursuing the START process. Again, the decision was made without seeking the advice or consent of Congress. To me, shutting Congress out of the decision-making process involving agreements among nations is a dangerous—a dangerous and corrosive course of action. It effectively undermines, I think, the intent of the framers of our Constitution. Monarchs make treaties. American Presidents propose treaties. They make treaties by and with the consent of the Senate. There is a tremendous difference between the two, and defining such differences is the essence of our Constitution.

I recognize that under the terms of the treaty, the President has the legal right to withdraw from the ABM Treaty with six months notice. I recognize that, upon adoption of the Defense authorization conference report, which strikes an existing prohibition, he will have the legal authority to reduce the U.S. nuclear arsenal without the consent of Congress. But I also believe that it would be a violation of the spirit of our Constitution to take either course of action without seeking the endorsement of the Senate. I think that the President's contention that the ABM Treaty is a cold war relic merits some consideration. His belief that it is time to move onto a new framework for missile defense reflecting the new realities of a world with multiple nuclear powers and would-be nuclear powers, makes a great deal of sense.

The President's ABM and weapons reductions proposals merit debate and

consideration in the Senate. I know there are some in this body who agree with him wholeheartedly and others who disagree just as passionately. I would like to hear their views on both sides. The American people should have the opportunity to hear the views of each side. But by the President deciding unilaterally to withdraw from the ABM Treaty and to reduce America's nuclear stockpile on the strength of a wink and a nod, the American people are denied a voice in the decision—a voice by the Senate—a decision, by the way, that will affect the security of the American people and the stability of the world for years to come.

Our hands are effectively tied at this point. The Defense authorization bill, in which we could have dealt with both of these issues, is for all intents and purposes signed, sealed and ready for delivery to the Senate for a vote in the Senate. A statutory prohibition preventing the President from reducing the U.S. nuclear arsenal below the levels established in START I is eliminated in that bill. A well-reasoned provision that would have conditioned the expenditure of FY 2002 missile defense funds on U.S. compliance with the ABM Treaty was thrown overboard before the Senate even took up debate on the Defense authorization bill.

We are advancing headlong into committing our nation and our treasure to an untried and unproven missile defense system, which we may or may not need and which may or may not protect us, while at the same time we are in full retreat from arms control treaties and policies that have helped stabilize the world for decades. We are looking to expand our military might from the land, seas, and skies into the heavens. The Department of Defense is investigating ways to use space as the ''ultimate high ground'' in military operations, expanding upon the peaceful use of satellites for intelligence and surveillance. No one is sure exactly where this research is leading, but we ought to have a full debate on the weaponization of space before these types of technologies are realized. We are taking these major, major steps without the nearest scrap of debate, discussion, or decision in the United States Senate.

You can be assured that I am as eager as anyone to reduce the number of unnecessary weapons in our country. But I am decidedly less than eager to pursue such a course of action without ensuring that Russia is on the same glidepath. Without a written agreement, without a treaty, such assurances cannot be made. We cannot verify intentions without a verification regime. We cannot measure progress without a formal system of monitoring. We cannot be assured of compliance without written guidelines spelling out what compliance means. A handshake, no matter how sincere or well-intentioned, is no substitute for a signature.

A President may be here today and may be gone tomorrow. A President of Russia may be here today and may be gone tomorrow.

A handshake was all right back in the old days when the Senator from Virginia and I decided that we would like to trade cows, or a couple of horses we would like to trade, or I would like to buy his crop of cane molasses. But when dealing between nations, we can't be content with a handshake or just looking into the other person's eyes and reading his soul. Things have to be put in writing. A handshake, no matter how sincere or well intentioned, is no substitute for a signature.

As Ronald Reagan so famously exhorted, ''Trust, but verify.''

It may have been W.C. Fields who said something to the effect: Trust, but always cut the deck. It was something like that. Always cut the deck.

Similarly, there is no vehicle before us for debate or a vote on the merits of withdrawing from the ABM Treaty. We gave away the opportunity to discuss this matter in the context of the Defense authorization bill in the interests of comity. We relinquished our right to even debate whether to condition missile defene funding on compliance with the ABM Treaty. Now, we are at the mercy of the President. He has to be aware that this is a contentious issue. He has to be aware that many members of this body have grave concerns over his decision. He has to be aware that a decision to withdraw from the ABM Treaty will have global ramifications.

As of this morning, it appears that withdrawal of the United States from the ABM Treaty is a done deal. I would have strongly preferred to have the President give more consideration to the role of Congress in foreign and defense affairs. He could have chosen to consult with Congress, and submitted to the Senate a formal resolution of withdrawal on which we could debate and have a vote. It appears that we are now past that point. But I would urge the President to put any agreement to reduce our nuclear arsenal in writing, as President Putin has requested, and to submit that agreement to the Senate so that the legislative branch, as intended by the framers, will have voice in the execution of such an important agreement between nations.

The issue of missile defense, the future of the ABM Treaty, and the future of the U.S. nuclear weapons arsenal are matters of the gravest importance. These are matters that deserve the full and undivided attention of the President, the Congress, and the Nation. These are not decisions that should be sprung on the nation in a speech or at press conference. I hope that the President will make the effort to include the legislative branch—the people's branch—in making any future, final decisions relating to these matters.

Mr. WARNER. Mr. President, will our distinguished colleague yield for a question on the speech he has just given?

Mr. BYRD. Yes.

Mr. WARNER. Mr. President, it was very interesting. I followed it very closely. The Senator from West Virginia is a valued member of our committee. I fully admit that I advanced in the course of our hearings in markup, and likewise the various provisions, which give rise to the Senator's concern.

I strongly support the President's action of exercising article 15 and giving notice. But I must say I am intrigued by the comments of the Senator from West Virginia. He obviously has done a good deal of research.

What are the precedents by which a President feels that a treaty is no longer of value to our Nation? Have they heretofore formally consulted and notified particularly the Senate which has to give the advice and consent? I will research that. But I was interested to the extent that the Senator might have some knowledge of it. We have had, I guess, minimal consultation.

The distinguished Senator from West Virginia, my colleague—I have been here 23 years; my colleague has been here many more years than I. I recall that many times we would sit down with Presidents and discuss momentous decisions regarding foreign policy informally. Then we had extensive hearings on the ABM Treaty. In each one, I advocated that we basically take the action our President was taking. But I am trying to think of the consultative process.

At this particular time, the best that I know is there were telephone calls with the Secretary of Defense and discussions with me about it. I presume that occurred with my chairman and perhaps the Senator from West Virginia. But what are the precedents for Presidents in a more formal way advising the Senate about the fact that he has reached a decision that a treaty is no longer of value to this country, and, therefore, he is going to exercise such a provision as the treaty may provide for the withdrawal?

Mr. BYRD. Madam President, as I have stated, I don't question the President's legal right to do that. That is not the question.

I think the question is, as I have tried to pose it, that the Senate, a body which, under the Constitution, approves or disapproves the ratification of treaties, should have an opportunity, in the case of the ABM Treaty—a treaty of such significance as this one has been and is—the Senate should have an opportunity to debate this. As I have indicated, I think the President should have asked for some advice from the Senate. He does not have to take the advice, but I have seen no evidence of the President seeking advice on this matter. He simply made up his mind to do it and did it.

Mr. WARNER. But he did forewarn the Nation.

Mr. BYRD. Yes.

Mr. WARNER. Our Nation.

Mr. BYRD. Yes.

Mr. WARNER. The Congress, President Putin, and others that that was his intention. He did have a series of

consultations with President Putin, his key aides, his Secretary of State, his Secretary of Defense, and, likewise, the National Security Adviser. But I guess we come back to the problem that you feel it was a matter of comity, not of law, that he——

Mr. BYRD. I say that he had the legal right.

Mr. WARNER. To do what he did.

Mr. BYRD. But if the Senator will recall, let's go back to the time when we were considering the INF Treaty. Mr. Dole was the leader on that side of the aisle. I was the leader on this side. And the Reagan administration sought to reinterpret the ABM Treaty to its own way of thinking at that time. There was a big dispute about this. There was a lot of pressure on me, as the majority leader at that time—the Senator probably didn't realize that, but I have not forgotten—to bring up the INF Treaty.

I said: Well, let's see what Mr. Nunn, the chairman of the Armed Services Committee, has to say about that. And let's see what Mr. Boren, the chairman of the Intelligence Committee, has to say. And let's see what Mr. Pell has to say. Now, when they all come back to me and give a report to me that they are satisfied with this, then we will call it up.

There was great pressure on me to bring up that treaty because President Reagan wanted to go to Moscow and sit down with Mr. Gorbachev and have an exchange of ratification papers on the INF. Mr. Baker, at the White House, was going to be there also. But I waited until those three chairmen of the Armed Services, Intelligence, and Foreign Relations Committees, respectively, were satisfied about the treaty.

As the Senator will recall, out of that delay Mr. Shultz went to Paris, I guess it was, and met with Mr. Schevardnadze and brought back something in writing, and we all reached an agreement that any reinterpretation of the treaty had to be agreed upon and approved by the Senate. And we are talking about the ABM Treaty.

I believe it was agreed that the interpretation of the treaty would be based on the testimony of witnesses, the actual language within the four corners of the treaty, and the interpretation by the then administration expressed through its witnesses in Senate hearings, and that any subsequent administration could not change that reinterpretation without going through this process and having the approval of the Senate.

Now, I say all of that, and my memory may not be exactly accurate on every point. That was back in 1987 or 1988, somewhere along that line, a long time ago.

Mr. WARNER. Madam President, I remember. I was here.

Mr. BYRD. At that time we were very concerned about a subsequent reinterpretation of the ABM Treaty, the ratification of which the Senate had approved, by a subsequent administration. Otherwise, a treaty would be without any value if a subsequent administration could come along and reinterpret a given treaty based on the way it saw things at that later time.

I say all that to my good friend from Virginia because I have been involved in the ABM Treaty for a long time. At that time we saw it as a matter of grave importance that an administration be allowed to reinterpret that ABM Treaty without subsequent hearings and without subsequent approval by the Senate as to the interpretation.

But here we are today, and we are walking away from that same treaty, and the administration—the President did announce this in the newspaper, but I saw nothing that was ever sent up. I do not remember ever seeing any letter from the President to the chairman of the Armed Services Committee or the Appropriations Committee or the Foreign Relations Committee or the Intelligence Committee.

Now, there may have been such, but I was not aware of it. The President said, some time ago, he was thinking about doing this. He did not feel that anything needed to be put in writing. That, to me, is enough to keep me awake at night. When a President says he does not think something of this nature has to be put in writing, that a mere handshake is good enough, that is a rather scary way of looking at it as far as I am concerned.

So this is why I say, I am sorry—I am not sorry we are reducing our arsenal. We ought to do that. It is costing too much, and we do not need it. But for the President just to walk away from the treaty, and the Senate not to have had any expression from the President in writing, or any formal expression at all—the Senate, as far as I am concerned, was ignored in this matter. This is what puzzles me. I am sorry that the Senate apparently is willing to just lie down, be quiet, and not ask any questions.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I do not feel that he just walked away.

In deference to your observations, he did, through a series of hearings with his key advisers, through public statements, clearly indicate his strong dissatisfaction with a treaty which has served its purpose, in my judgment, and now, given the turn of events—particularly those on September 11, when our Nation was shocked at the devastation brought on by terrorists—he feels it imperative, that it is his duty to now begin to proceed to explore technology and options which could lead to an effective system that hopefully will be deployed.

But I just wanted to see——

Mr. BYRD. See, I do not see that nexus. I do not see that connection.

Mr. WARNER. I just wanted to see if there were precedents. Perhaps henceforth the Senate, in the advice and consent process, should put a—what do we call it?

Mr. LEVIN. Condition.

Mr. WARNER. Yes, into a treaty requiring the President, before any amendment or reinterpretation, to come back and seek the advice and consent of the Senate on his proposal. There we state very clearly. But so far as I know, I do not know of a requirement or a precedent which our President has broken, nor did he do anything that was not in accordance with the law and/or the terms of the treaty.

Mr. BYRD. I have already said the President did not do anything that is not in accordance with the law. He has not done anything that is illegal.

But let's see if your imagination and mine might be stretched to the farthest limit. Let's imagine I became President. And that taxes the imagination.

Mr. WARNER. No. I think you would do quite well.

Mr. BYRD. In the farthest stretches of the imagination, if I were President, I would not think of walking away from a treaty—the ABM Treaty—one that has served the Nation well, without at least having the Senate in on the action. I would find some way to get some expression and view from the Senate.

As it is, no Senator here has pointed out to me, tonight at least, that that effort was made. I think the administration would be much wiser if it took the Senate into consideration and had some expression of support; let the American people hear some debate in the Senate. I think the administration would be much wiser if it let the Senate in on the matter and sought its advice.

Mr. WARNER. I thank my colleague. I remember the many debates we have had in the past on the War Powers Act. Although that act is observed in spirit by Presidents, Republican and Democrat, they certainly have never accepted it really as the letter of the law. It does explicitly set out the need for consultation with the Congress.

Mr. BYRD. It does.

Mr. WARNER. And we have had various forms of consultation heretofore.

Mr. BYRD. It also requires reports from the President.

I thank the distinguished Senator.

Madam President, the conference report to the fiscal year 2002 Defense authorization bill before the Senate today contains many provisions that will help the men and women who serve our country in uniform. The bill provides for pay raises, increased educational benefits, and better housing for our military personnel. It authorizes important funds for the military services' counter-terrorism programs, and enhances efforts to improve the serious accounting problems of the Department of Defense.

Unfortunately, as developments unfolded in our strategic relationship with Russia on nuclear weapons and the Anti-Ballistic Missile Treaty, it became clear to me that the conference report before us does not move us in the right direction on those two critical issues. It is the importance of our strategic relationship with Russia, and

the rest of the world, that compelled me to oppose this conference report. The conference report eliminates a provision of law that forbids the President from reducing our nuclear stockpile below the levels laid out in the Strategic Arms Reduction Treaty of 1991, which total about 6,000 warheads. Assuming that this conference report is enacted into law—and I assume it will be on its way to the President—the President will then be accountable to no one on how much he would like to reduce our nuclear arsenal. The President could call for these cuts without so much as one minute of debate in Congress.

Let me be perfectly clear for the third time: I do not oppose reductions in our nuclear arsenal. The cold war has passed into history, and to a great degree, so has the logic of maintaining thousands of nuclear weapons pointed at a country that no longer advocates the destruction of our way of life.

In the next fiscal year, the Department of Energy will spend $5.4 billion on our nuclear stockpile. That is serious money. I do not know exactly how many nuclear warheads we need to maintain, but I cannot think of one good reason to continue spending that much to maintain far more nuclear warheads than what almost all experts believe to be appropriate to meet our national security requirements. However, we must consider the role of Congress in our national defense, as spelled out in the Constitution. To me that is the bedrock of the Republic, Congress, the people's plans, the control over the purse. Article I, Section 8, Clause 12 reads: ''The Congress shall have the power to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.'' The Constitution does not give the executive branch the power to raise armies. That is congressional power. The Constitution gives that power to the legislative branch, the Congress. The document that establishes our republic says that Congress, not the President, shall have the power to support armies, to maintain navies.

Clearly, the Founding Fathers did not want the chief executive to have the sole power to determine the size and shape of our military. By eliminating the one statutory restriction on the President's action with regard to the size of our nuclear forces, we in Congress have turned our back on that responsibility. I have already spoken today on the President's announcement to withdraw from the ABM Treaty. I believe that it is an ill-timed move that should have been subject to consideration and debate in the Senate. I supported a provision that was included in the original version of the Defense authorization bill as passed by the Armed Services Committee to limit our missile defense testing for the next 9 months to those tests that are allowable under the ABM Treaty. Those restrictions could have been waived under two circumstances: first, if the United States and Russia reached a new agreement on missile defense testing, or if there was an affirmative vote in both houses of Congress to authorize the tests. This was a reasonable provision. It protected the constitutional duty of Congress in national defense and foreign affairs.

I regret that, following the tragic events of September 11, this provision was dropped from the bill without so much as a vote. I can understand the great desire on the part of all of us to support the President in a moment like this. Considering the President's announcement this morning on withdrawal of the United States from the treaty, we should have had a fuller debate on the ABM Treaty provisions. What is history going to read? Where is history going to go? Where are the Senators of tomorrow going to look in the record for a debate on this very important matter? While I voted against this conference report, I appreciate the work that the chairman and ranking member of the Armed Services Committee, Senator LEVIN and Senator WARNER, have put in on this bill. They have few peers in their knowledge of the challenges facing the armed services. For the 7 weeks that this bill was in conference, they have had an exhausting schedule of meetings with their House counterparts, often meeting several times each day. They have continued the tradition of bipartisanship on the Armed Services Committee, and their staffs likewise have labored day and night, hour after hour to bring forth this legislation.

The issues of nuclear arms reductions and national missile defense should not disappear from our consciousness because of the President's announcement on the ABM Treaty. I hope that it will focus the attention of other Members of the Senate to the need to safeguard the role of Congress in defense and foreign affairs. While I look forward to future debates on these vital issues, I deeply regret that this Defense authorization bill did not tackle them head-on, have a debate, votes thereon, and for that reason I voted against its adoption.

I yield the floor.

Mr. WARNER. Madam President, this morning, President Bush announced that he had given Russian President Putin formal notice that the United States—pursuant to article 15 of the 1972 Anti-Ballistic Missile Treaty—was exercising its right to withdraw from that Treaty. That article provides that ''each Party shall . . . have the right to withdraw from this Treaty'' with six months notice. I support the President's action.

The ABM Treaty has served the cause of peace well for many years, but the Treaty has completed its mission. It was negotiated and signed in an era when the United States and the Soviet Union were implacable enemies. I, as Secretary of the Navy, was in Moscow in May 1972, where President Nixon signed the ABM Treaty for the United States. Each nation sustained large nuclear forces aimed at the other. The Treaty was seen as a means of controlling the arms competition between our two nations and as a building block to other arms control agreements. It has served its purpose. But the cold war, as President Bush noted in his remarks today, is long over. The Soviet Union has fallen, and Russia is, in the words of President Bush, no longer an enemy. Our President is pursuing with Russia a new strategic relationship. As President Bush has said, ''We're moving to replace mutually assured destruction with mutual cooperation.'' President Putin has accepted this new challenge and we can expect the two Presidents to make further progress. Now our President must explore new technologies and provide a system to protect our people from attacks by a limited number of missiles.

The events of September 11 dramatically illustrate that this nation has enemies willing to go to extraordinary lengths to attack our homeland and indiscriminately kill thousands of innocent civilians. Where some doubted such devastation to our nation could ever occur, all doubts are now gone. We know that terrorists are seeking to acquire weapons of mass destruction, and we know that many of the nations that support the terrorists either have, or are seeking to acquire, both weapons of mass destruction and the means to deliver them.

It is the first obligation of any U.S. President to provide for the defense of our citizens and our vital national interests. President Bush is committed to protecting our nation—from all known threats. His commitment to provide defenses against attack from a limited number of ballistic missiles, and his determination to move beyond the ABM Treaty are motivated by this solem obligation.

From the inception of the new administration, President Bush and his key advisors have persistently pursued with Russia, through a series of consultations, a framework of understandings that would enable the United States to perform testing of new options and other steps leading to the eventual deployment of a ballistic missile defense system. These discussions will continue, but it is timely for the United States to give notice under article 15. Some have claimed that exercising this option to withdraw is a ''violation'' of the Treaty. It is not. It is not a ''violation'' to exercise our rights under article 15.

The Russian Government certainly recognizes and accepts this. Indeed, the statements coming from Russian leaders indicate that President Bush, and his key aids:, have carefully laid the groundwork for U.S. withdrawal from the treaty. The U.S. action was preceded by U.S. and Russian commitments to accomplish the most dramatic reductions in offensive nuclear forces in the history of arms control. This was a high priority for Russia.

There is no sense that U.S. withdrawal will result in a new arms race. There is, instead, a sense of acceptance and a recognition that our close relationship will continue to grow.

The President has an obligation to defend this nation—from all known threats. Deliberately leaving our nation vulnerable to missile threats in a world so unpredictable and dangerous is not the wise course of action. We cannot, and must not, allow another nation to have a veto over our right to defend our homeland and our people. The President has acted courageously. He has my full support.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first let me thank our good friend from West Virginia for his kind remarks about myself and my ranking member.

I yield myself 10 minutes. I would like to comment on a few things which the good Senator from West Virginia said.

Mr. WARNER. Would the Senator yield so that I could join him simply in thanking the Senator for his reference to the two of us and our staffs. We very much value his work as a member of the Armed Services Committee.

Mr. BYRD. I thank both Senators. Concerning the work, the diligence, the dedication, and the loyalty to our country that is constantly being demonstrated and exhibited by these two leaders of the Armed Services Committee, my words fall pitifully short in expressing my true respect for these two Senators.

They leave nothing undone when it comes to the expenditure of hours, labor, toil, and sweat. I also say the same with regard to the staffs of both Senators. As a Member, I have been treated very fairly on both sides. I thank the Senators.

Mr. LEVIN. I thank our dear friend. Madam President, I totally agree with the Senator relative to the unilateral decision made by the President today to withdraw from the ABM Treaty. I think it is a serious mistake.

I made a statement earlier today going into great detail as to why I think it was a mistake. I don't think any subject has taken more time of our committee than the national missile defense program and its relationship to the Anti-Ballistic Missile Treaty. I will read from the long statement that I made today relative to this subject:

Ensuring the security and safety of the American people, especially from weapons of mass destruction, must remain our first defense priority. If I believed that withdrawing unilaterally from the Anti-Ballistic Missile Treaty would enhance our national security, I would support doing so. However, the President's announcement that the United States will unilaterally withdraw from the ABM Treaty is a serious mistake for our national security. It is not necessary and it is not wise.

Unilateral withdrawal is not necessary because the ABM Treaty is not a significant constraint on testing at this time. Indeed, until a few months ago, the Ballistic Missile Defense Organization, BMDO, was proceeding with research, development and testing that was entirely consistent with the treaty. This approach recognized that the United States can develop and test national missile defenses *and* stay in the treaty. However, the administration then added new tests that would conflict with the treaty—even though these tests are of marginal value.

Unilateral withdrawal is not wise because it focuses on the least likely threats to our security rather than the most likely threats. The Joint Chiefs of Staff believe that ballistic missiles are the least likely means of delivering a weapon of mass destruction to the United States. The more likely threat comes from a nuclear, biological or chemical weapon being delivered to the United States in a plane, truck, ship or a suitcase, which would be more reliable, less costly, harder to detect and have no ''return address'' against which to easily retaliate. We need to focus on the most likely threats to our security before accelerating the spending of billions of dollars for defenses against the least likely threats.

Unilateral withdrawal is not wise because it needlessly strains our growing relationship with Russia, a partner in the new war on terrorism. The President's decision also seems to be a violation of his campaign pledge at the Citadel in September 1999, that, if elected, he would ''offer Russia the necessary amendments to the Anti-Ballistic Missile Treaty.'' From newspaper accounts it appears that the administration did not offer amendments to the Russians that would allow us to proceed with the new tests that the administration added. Instead, something much broader was proposed by the administration and not necessarily in the form of amendments. In other words, rather than proceeding with tests permissible under the ABM Treaty or reaching agreement with Russia on amendments to allow for further testing and maintaining the right to withdraw at a later time, the administration has decided at this time to unilaterally withdraw. This is not the way to treat an important nation with which we seek a new relationship based on mutual cooperation. It is fair to ask: What specific amendments to the ABM Treaty were proposed to the Russians by the President as he promised?

Unilateral withdrawal is not wise because it risks upsetting strategic stability. It risks a dangerous action-reaction cycle in offensive and defensive technologies that would leave America less secure. Even though the missile defense system being pursued by the administration is limited, the technologies that would be created as part of this limited system could quickly lead to a much larger program that could—in Russian eyes—undermine their nuclear deterrent. This could prompt Russia to take the destabilizing step of putting multiple warheads on missiles, so-called MIRVed missiles. this could lead China to rapidly increase their nuclear program. It could also lead China or other countries to devise countermeasures and decoys that they could then sell.

Finally, the President's decision to withdraw unilaterally from the ABM Treaty is not wise because it risks undermining our relationships with allies, partners and other nations just when the world is united in a common fight against terrorism. As this multilateral effort clearly demonstrates, our security is enhanced when we make common cause with other nations in pursuit of common goals. In both the short-term and the long-term, our security is diminished when we forge ahead unilaterally regardless of the impact on the security of other nations.

The Armed Services Committee will hold hearings on the administration's decision in the weeks and months ahead.

Madam President, I start with a very strong ''Amen'' to the Senator from West Virginia on his comments relative to the decision of the President to unilaterally withdraw from an arms control treaty, with no new structure in its place. He has decided to tear down the old structure, which has produced significant stability when the cold war was on and after it was over. Unilateral withdrawal could unleash some very negative forces in this world. It could unleash an arms race in offensive measures, countermeasures, ways to defeat limited defenses, decoys, and ways to overcome those countermeasures. The marginal gain that will be achieved in terms of the proposed additional testing is so marginal it doesn't come close to outweighing the negative forces that now are likely to be unleashed.

The likelihood that we would be attacked by a state with a ballistic missile—we have been told by our top military people —is very slim. The greater likelihood is that a weapon of mass destruction would be delivered by a truck, a ship, a suitcase, or by an airplane, which have no return address the way a missile does. You don't know from where that suitcase or truck comes. They make it harder to find the source. But with a missile, you know the source. Whoever launched a missile, if they could get their hands on one, would be immediately destroyed. The idea that a North Korean regime would attack us with a missile, which would lead to their immediate destruction, runs counter to what the intelligence community has told us: Their first goal in life is their own survival.

So in tearing down this security structure, this source of stability, without having anything in its place, to address the least likely means of delivery, means that we will be spending a huge amount of resources against the least likely threat, instead of putting those resources on the most likely threat, which are the terrorist threats, delivering a weapon of mass destruction with a truck, or a ship, or an airplane.

We have, by this action of the President today, removed a structure that made it possible for us to have a stable relationship and allow us to be much more, it seems to me, rational in the use of our resources.

So I agree with the Senator from West Virginia on that point. I want to reassure him of a couple things, if I can. First of all, the language I had offered in the committee requiring a vote before any of the funds that are authorized or appropriated would be used for any test in conflict with the ABM Treaty was language which, by its own terms, did not affect the power of the President to withdraw from the ABM Treaty. Subsection (d) of that language, which I had offered, and we were able to pass with the help of the Senator from West Virginia—by one vote in the Armed Services Committee—explicitly said: Nothing in this section shall be construed to limit the authority of the United States to withdraw

from the ABM Treaty at any time upon a decision of the United States that extraordinary events relating to the subject matter of the treaty jeopardized the supreme interest in accordance with article XV of the treaty.

To the extent that that is reassuring, the language that was removed, for reasons which I gave at the time, did not prevent the President from withdrawing from the treaty. In fact, if it had prevented the President from withdrawing from the treaty, we would not have been able to get the majority vote in the Armed Services Committee. Some colleagues would not have voted for it if it had limited the President's right to withdraw from the ABM Treaty.

The second thing I want to say to our good friend from West Virginia is this: The language that prohibited the executive branch from going to a lower level of nuclear weapon delivery systems, below the START I level, has been in the law for a number of years. We have tried to remove that language for many years. Indeed, I think the Senator from West Virginia may have supported that effort at times to remove that language. The uniformed military has urged us to repeal that language. The top defense civilian leadership has urged us to repeal that language.

But I want to assure the chairman of the Appropriations Committee of something that he knows better than any Member of this body, so I am even a little reluctant to give him this assurance, because if anybody stands for what I am going to say, it is the Senator from West Virginia: Nobody can take away from the Congress the power of the purse. Nobody. Nobody can take away from the Congress the power to tell the President of the United States you must have whatever level of nuclear forces we determine you must have.

Mr. BYRD. The Supreme Court ruled within the last couple of years that Congress could not give away its constitutional power.

Mr. LEVIN. Indeed, we cannot.

Mr. BYRD. The Senator from Michigan, together with the then-distinguished Senator from New York, Mr. Moynihan, and the then-Senator from Oregon, Mr. Hatfield, and I sought to bring that case before the Court. The Court said we didn't have standing. But subsequent to that, other parties that did have standing, and were recognized as having standing by the Court, pursued that case. The Court, throughout that—I am trying to think of a word I can safely say here in the Senate about the line-item veto.

Mr. LEVIN. I would suggest the word ''abomination.''

Mr. BYRD. The Supreme Court, throughout that miserable piece of legislation, upheld the fact that, as the Senator said, the Congress cannot give away its powers as set forth under the Constitution.

Mr. LEVIN. And that is what I just want to reassure my good friend from West Virginia that he has been the most steadfast, the most valorous, and the most determined representative of that point of view. I was proud to join him in the Supreme Court.

The Appropriations Committee, of which our good friend is the chairman, has determined there will be funds in fiscal year 2002 for 500 minutemen ICBMs—it is in your bill—and for 50 peacekeeper ICBMs. There will be 17 to 18 Trident subs. There will be 94 B–52Hs. That is the power of the purse. So we have done nothing to diminish that power. The President cannot take that away. We could not give it away. We should never try. But if anyone ever tried, we can't give it away. The chairman of the Appropriations Committee and the appropriators, and then ultimately this Congress, determines what level of weaponry we are going to fund and what must be maintained. We determine that.

Nothing in this bill changes that. That continues to exist. But what we did do is remove a prohibition in permanent law that said—not the annual appropriation, which continues to be ours, and ours alone, but a permanent law—we had what I considered to be an artificial prohibition that they had to stay at the START I level instead of leaving that to the annual appropriations process; it was something in permanent law.

There are a number of us who have been trying to remove that prohibition for years. We thought it was no longer appropriate. The military and defense officials were saying we were spending a lot of money we should not spend, and our conference successfully repealed that prohibition this year. It does not in any way diminish the power of this Congress, which was just exercised on the appropriations bill again this year to determine the level of nuclear forces or any other weapons we have in our inventory.

That remains, should remain, and always must remain the power of the Congress, the power of the purse.

Madam President, this is no ordinary time. Two days ago, the Nation observed the 3-month anniversary of the most deadly attack ever against the United States. For more than 2 months, U.S. forces have been engaged in a military campaign on the ground and in the skies of Afghanistan. Their success has been remarkable: after just 9 weeks, the Al Qaeda terrorist network is on the run, and the Taliban regime that harbored them is no more. Our brave men and women in uniform embody America's determination to protect our citizens from more terror and our resolve to track down and relentlessly pursue terrorists and those who would shelter them. And even as we continue to remove flag-draped coffins from the ruins in New York, flag-draped coffins have returned from Afghanistan with the bodies of heroes who have given their lives for our freedom, including our freedom from fear.

Against this background, I am pleased to bring to the floor of the U.S. Senate the National Defense Authorization Act for Fiscal Year 2002. The conferees have produced a good, balanced bill that will strengthen our national security. The U.S. military is the most capable fighting force in the world today, and this bill ensures it will remain so, especially as it is engaged in a war against terrorism.

This bill reflects the contributions and hard work of many, many people over many, many months. I am grateful to Senator WARNER for working with me every step of the way in producing this bill. We have served together on this committee for more than two decades. We agree on most things. When we disagree, we trust one another. No chairman could ask for a better partner. I want to take this occasion to express my gratitude for his invaluable support, which made this a better bill.

I also want to thank the chairmen and ranking members of the subcommittees for their help in the conference and throughout the year in completing action on this important bill.

Finally, I want to thank Representatives STUMP and SKELTON. Like Chairman STUMP, this was my first year as chairman. He was also chairman of the conference. As conferees, we faced many difficult decisions. This was a very challenging conference. But Representatives STUMP and SKELTON made a major contribution to produce a bill that is in the national interest. Madam President, the National Defense Authorization Act for Fiscal Year 2002 authorizes $343.3 billion for national defense programs, the full amount requested by the President and in the budget resolution. This bill addresses a number of important priorities.

This bill builds on Congressional efforts in recent years to improve the compensation and quality of life for our forces and their families. It authorizes a pay raise of at least 5 percent for all military personnel, effective January 1, 2002, and targeted pay raises between 6 and 10 percent for mid- and senior-level enlisted personnel and junior officers. It extends critical bonuses and special pay authorities by 1 year. It authorizes personnel with critical skills to transfer up to 18 months of unused benefits under the Montgomery G.I. bill to family members in return for a commitment to serve 4 more years, an important provision Senator CLELAND has been fighting for for some time. It authorizes a plan to provide U.S. savings bonds to personnel who commit to serve at least 6 additional years of active-duty service in a critical specialty. It authorizes $10.5 billion for military construction and family housing, an increase of more than $500 million above the budget request. It includes a series of provisions to enhance the ability of military voters and their families to vote.

One of the most difficult issues for the conference was whether disabled military veterans would receive their

retired pay and veterans disability compensation concurrently. This is a popular and meritorious benefit that Senator HARRY REID has championed. I was disappointed that the House was unwilling to accept this benefit because it would have required a vote on the budget point of order. The conference agreement authorizes disabled military veterans to receive their retired pay and veterans disability compensation concurrently, but make this contingent on the enactment of legislation offsetting the cost of this benefit. The conference agreement also includes an extremely modest enhancement to special pay for retirees with service-connected disabilities. It is my hope that in the future Congress will allow our military veterans to receive the retired pay and veterans disability compensation that they earned and deserve.

This conference report improves the ability of U.S. forces to combat terrorism, and it improves the ability of the United States to combat the proliferation of nuclear, biological and chemical weapons. To help combat terrorism, it adds to the budget request: $47 million for science and technology to help confront asymmetric threats such as chemical and biological warfare; $17.4 million to procure additional protective equipment for chemical and biological agents; and, $10 million to help fund our combatant commanders around the world fund high-priority projects to defend U.S. forces against terrorism.

This bill also authorizes the full $403 million requested by the administration for the Cooperative Threat Reduction program to continue destroying and dismantling nuclear warheads and missiles in the former Soviet Union. The bill also adds nearly $60 million for Energy Department programs and research to combat proliferation of such weapons. With this funding, the Congress gives additional tangible support to the continuing effort to reduce the threats posed by offensive nuclear weapons, their delivery systems, and related materials.

On missile defense, we followed the funding formula in the Senate bill, making a reduction of $1.3 billion in the request and authorizing the President to use the $1.3 billion for whichever he determines is in our national security interest: one, research and development of missile defense programs as previously requested; and two, DOD activities to combat terrorism. I sincerely hope the President will wisely choose to use these funds to combat the more likely threats to the United States from terrorism, rather than the least likely threat of a ballistic missile attack on our Nation.

The bill contains important language requiring the Department to provide additional information and program reviews to ensure adequate congressional oversight and transparency of the program. I would add that the Senate owes a great debt to Senator REED of Rhode Island, who worked on this issue tirelessly over many months to reach this point.

The House bill contained language that could have been interpreted to authorize the use of Fort Greely, AK, as an operational ballistic missile defense site. A number of us in the Senate felt very strongly that we should not authorize an operational site in violation of the Anti-Ballistic Missile Treaty. So this language was modified in conference to clarify that Congress has authorized the construction of only those facilities that are necessary to establish a test bed, not an operational missile defense site.

As I already mentioned, the national missile defense testing program is not constrained at this time by the ABM Treaty. The President's decision to unilaterally withdraw from the treaty is a serious mistake for our national security. It is not necessary and it is not wise.

As I also mentioned, I am pleased that the conference report contains a provision from the Senate bill that would eliminate statutory restrictions on the President's ability to retire unneeded U.S. nuclear forces. We have been fighting for this flexibility for years, and I was disappointed that we had to drop a similar provision in the conference on last year's defense bill. This conference agreement allows the administration to move the United States toward lower nuclear force levels contemplated under START III and below, and toward levels being sought by the administration.

This bill allows for significant savings through improved management in several important areas of the Defense Department. This bill includes a major victory for good government and for the readiness and transformation our military forces, it authorizes another round of base realignment and closure. The civilian and military leadership of the Department of Defense have told us over and over again, through two administrations, that DOD has excess infrastructure and needs a new round of base closures to free up billions in savings for higher priority defense needs. Senator MCCAIN and I have been fighting for a new BRAC for more than 5 years, and I am very pleased it is included in this bill.

This bill makes several minor changes to the previous BRAC process and to the Senate bill. Instead of occurring in 2003 as proposed in the Senate bill, the new round of BRAC will, in order to obtain approval by the House, occur in 2005. Even with this delay, the House held out until the last minute.

We also have tightened the provisions by which the base closure commission can add additional facilities for closure not already included in the list proposed by the Secretary of Defense. I want to be very clear about this second change. As in the past, the Secretary will propose to the commission for their consideration a list of installations he suggests for closure or realignment. If the commission wishes to add to the Secretary's list more installations for its consideration, at least 7 of the 9 commissioners, a supermajority, must vote to do so. However, once an additional installation is added for consideration, the final recommendation on whether to close or realign it will be by a simple majority vote, 5 votes, of the commission, just the same as the original list. In other words, we have raised the preliminary hurdle for the commission to add to the Secretary's list installations for consideration, but the final hurdle, whether to actually include that installation in the commission's recommendation to Congress, will be the same for all installations and the same as in previous BRACs, that is, a simple majority.

BRAC was by far the most difficult issue in conference, and I want to especially thank Senator MCCAIN for his leadership and Senator WARNER for his support on this issue. Personally, I would have preferred BRAC in 2003 over 2005. But I also prefer 2005 over no BRAC at all. In the end, those were the options. This bill is clear, there will be another round of base closure in 2005. This is a major victory for those who want to give the Defense Department the ability to realize the significant savings that can only come from more base closures.

The bill provides for improved contract management and greater competition for the $50 billion of service contracts awarded by the Department of Defense each year. Secretary Rumsfeld has testified that the Department should be able to achieve 5 percent savings across the board through management improvements. We have identified a number of management tools and strategies already in wide use in the private sector that should enable the Department to save billions of dollars on its service contracts over the next several years.

This bill makes the Defense Department, rather than Federal Prison Industries, FPI, responsible for determining whether FPI products meet the Department's needs. This means that private sector companies will have an opportunity to compete with FPI for Department of Defense contracts that are paid for with their tax dollars. It is fundamentally unfair that these companies have been denied this opportunity in the past, and I am delighted that we have finally been able to address this problem.

This bill makes significant contributions to the readiness of our military. It authorizes funding to improve the readiness of Army aviation, including: funding for 22 Black Hawk helicopters, 10 more than the administration requested; upgrades to Apache helicopters; and additional TH–67 training helicopters. It authorizes $62.5 million for upgrades to the B–2 bomber and an additional $100 million to maintain the B–1 bombers, which continue to demonstrate their effectiveness against

terrorist targets in Afghanistan. It authorizes $55 million to upgrade engines and reduce maintenance costs for the F–15 and F–16 aircraft.

The bill also adds money to increase full-time manning in the Army National Guard; upgrade the Navy's electronic warfare aircraft; improve the operational safety and capabilities of our test ranges and space launch facilities; and continue modernizing the training aircraft used by the Air Force and Navy for the training of new pilots.

This bill also supports the transformation of our military to a lighter, more lethal, more flexible force. It authorizes the request of $3.9 billion for the F–22, including funding to procure 13 aircraft. It approves the requested funding of $3.0 billion for three *Arleigh Burke*-class destroyers, $2.3 billion for one Virginia-class attack submarine, and $370.8 million for one T-AKE auxiliary cargo and ammunition ship. It provides the full request of more than $1.5 billion for the Joint Strike Fighter program. It authorizes nearly $200 million for Navy transformation, including an increase of $178 million for converting four excess Trident strategic missile submarines to carry Tomahawk cruise missiles, instead of two as requested in the budget. It authorizes more than $561.3 million for Unmanned Aerial Vehicles, UAVs, including an increase of $26 million for procurement of Predator UAVs, which have been used successfully in Afghanistan in the war on terrorism.

The conference agreement modifies the provisions that we adopted last year regarding the status of training exercises by the Navy and Marine Corps on the Island of Vieques. It cancels the referendum on live-fire training that was required in last year's authorization bill. It also authorizes the Secretary of the Navy to close the Vieques training range only if the Secretary certifies to the President and Congress, after reviewing the recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps, that an alternative facility or facilities will provide equivalent or superior training.

In view of the importance of this issue to the people of Puerto Rico, I would have preferred a solution that placed the decision on whether to close the range in the hands of the President. I believe that this approach would have been more likely to ensure peaceful access to the island for training purposes in the long run. However, the House rejected this approach, and this compromise is the best outcome we could achieve.

Included in the Conference Report Statement of Managers is an excerpt of a letter dated November 29, 2001, from Deputy Secretary Wolfowitz making it clear that the President prefers the approach we have taken in this bill. It reads:

Consistent with the commitments made by both the President and Secretary England, the Navy remains committed to identifying a suitable alternative and is planning to discontinue training operations on the island of Vieques in May of 2003, contingent upon the identification and establishment of a suitable alternative. However, until a suitable alternative is established, Vieques remains an important element in the training of our forces deploying to fight the war.

This is a strong, balanced bill. It fully funds the $343.3 billion for national defense requested by the administration. It improves the compensation and quality of life of our forces and their families. It improves the readiness of the military services. It advances the transformation of the military to lighter, more lethal and more capable forces. It improves the capability of the armed forces to meet nontraditional threats, including terrorism and unconventional means of delivering weapons of mass destruction. It improves the efficiency of DOD programs and operations.

Once again, I want to thank Senator WARNER, all the Members of the Senate and House Armed Services Committees, and the staffs of both committees for their long hours of hard work on this legislation. I hope the Senate will join us in passing this bill, sending it to the President for signature, and sending a strong message of support to our military men and women now engaged in a war to defend our freedom and way of life.

I am going to yield the floor at this time. After the Senator from Virginia speaks, perhaps the Senator AKAKA, who has been here a while, can be recognized.

I yield the floor.

Mr. WARNER. Madam President, I want to start by thanking Chairman LEVIN, and his staff under the fine leadership of David Lyles, for the manner in which they conducted this conference. It was a team effort from start to finish, and we have a good product to present to the Senate as a result.

We were all sent here by our constituents to do the people's business, and that we have done. The conference report now before the Senate strengthens the President's hand in the ongoing way on terrorism. This legislation sends a clear signal to all of the men and women in the military—from the newest private to the four-star general—that we are clearly behind them.

With this legislation, we are providing critical funding and legislative authorities to support the men and women defending freedom in Afghanistan and those on station around the world who are safeguarding our liberties and who are prepared to answer the call on a moments notice.

The conference report we are presenting to the Senate today contains $343.3 billion for defense—an increase of almost 11 percent over last year's level. In addition, this legislation authorizes the defense portion of the $40 billion emergency supplemental that was proposed by the President to respond to the events of September 11. Of that $40 billion the Defense Department has received $13.7 billion from the first $20 billion increment, and will receive several billion more from the second $20 billion—the exact amount is still the subject of an ongoing appropriations conference.

As our military is engaged in an all out war against terrorism, the Congress is fulfilling its duty with this legislation by providing the funding needed to successfully conduct that war.

Just 3 weeks ago, I joined Chairman LEVIN in visiting our military men and women who are participating in Operation Enduring Freedom. We visited with forces in Uzbekistan, were privileged to share Thanksgiving dinner with some of our troops in Pakistan and with sailors aboard the USS *Carl Vinson*, from which planes are flying in support of forces in Afghanistan.

Our Nation can be proud of the men and women serving in our Armed Forces. The dedication, professionalism and bravery that is being displayed at any hour of the day or night is extraordinary.

During our trip to the region, we spent time with a Special Forces team of 11 men preparing to deeply into Afghanistan. I was struck by the professionalism, courage and dedication of these soldiers. With imminent danger ahead, their thoughts were of mission, home, family and their uncompromising love of country. They knew they were embarking on a critical mission, and they were ready to go.

I have had the privilege of being associated with the United States military for over a half a century, beginning as a young sailor in the closing days of World War II. I have never seen greater bravery or dedication or commitment in the faces of our soldiers, sailors, airmen and Marines. The support of the Congress and the American people is the only modest recognition they hope for. That, we owe them; that they have, not since the days of world War II has the nation been so united behind the men and women in uniform.

I commend President Bush for his inspiration and leadership. During the nearly 10 weeks of military operations, he has communicated his clear intent, and he has not wavered. The American people are united behind him and behind our military.

It is interesting to note that, less than a year ago, the Bush Administration inherited a proud armed force but one that was showing the effects of a decade of underfunding and over commitment abroad. While U.S. servicemen and women performed their military missions with great dedication and professionalism, military personnel, equipment and infrastructure were increasingly stressed by the effects of the unprecedented number of military deployments over the past decade, combined with years of declining defense spending. This contributed to what General Hugh Shelton, former Chairman of the Joint Chiefs of Staff referred to as the ''strategy-resource mismatch.''

President Bush is to be commended for the increases he has proposed in defense spending. Prior to September 11, the President recommended increases for Defense for fiscal year 2002 totaling $38.2 billion. These increases represent an almost 11 percent increases in Defense spending above the fiscal year 2001 amount. The amount for Defense requested by the President in the emergency supplemental totals over $20 billion. Hopefully that additional amount will be provided as well.

Building on the President's solid proposal for fiscal year 2002, Senator LEVIN and I were able to conclude a conference agreement that is much needed by the military, particularly at this time of conflict when those in uniform and their families are facing all the dangers and unknowns of war. The conferees have stepped up to meet the challenges and to provide our Commander-in-Chief, President Bush, what is needed at this critical time in America's efforts in leading the world against a common enemy—terrorism.

A few days ago, the President returned to the Citadel to address the Corp of Cadets. In his remarks, the President reaffirmed his vision for the armed forces and his plan for defending the blessings of liberty and freedom against those who would seek to destroy them.

The President noted at the Citadel, ''If America wavers, the world will lose heart. If America leads, the world will show its courage. America will never waver. America will lead the world to peace.''

In this time of war, we must show our support for our military, our President. I thank all Senators who supported the conference report.

Madam President, I will remain on the floor indefinitely. We do wish to accommodate other colleagues. The distinguished Senator from Arizona is present, and at the appropriate time, we will try to accommodate our colleague from Arizona.

I see our colleague from Hawaii. This Senator will be very happy at this time to yield the floor, if he so desires to seek recognition.

Mr. LEVIN. I wonder if the Senator from Hawaii will yield for a moment.

Mr. AKAKA. Yes.

Mr. LEVIN. Madam President, before I leave for a moment, I beg the indulgence of my good friend from Virginia. I have a lot I want to say in a very heartfelt way about my friend from Virginia. We could not have a bill without the partnership we have on that committee. The Senator from West Virginia was very nice in the way he phrased that. I will always remember the way he gave us a bouquet tonight on a bill which he, for his own very strong principles, decided to vote against. I want to let my friend know, though I have to leave for a moment, I will be back to say thank you to the Senator from Virginia and the staffs.

Mr. WARNER. No thanks are necessary. It is my duty. My constituents sent me, and we will at some point in time resume the colloquy between the chairman and myself. At this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I rise today to express my support for the conference report to S. 1438, the Department of Defense Authorization Act for fiscal year 2002. I commend Chairman LEVIN, Senator WARNER, and their staff for the tremendous amount of work that has resulted in this conference report. There were many difficult issues to resolve, and I appreciate the persistence of our chairman and ranking member in ensuring the successful outcome of this conference report.

In the area of readiness and management support, the conference report authorizes $10.5 billion for military construction and family housing programs, an increase of $528.7 million to the administration's budget request. The report also includes $36 million for various systems to improve accounting for spare parts inventories and streamline maintenance processes. These are important steps in our efforts to improve the facilities in which our military personnel work and the housing in which they and their families live.

The conference report includes several provisions to improve the management and oversight of the Department of Defense. For example, there is a provision which addresses the Department's inability to produce reliable financial information or auditable financial statements, a long-time concern for myself and a number of my colleagues. The conference report also provides for improved management and greater competition for the $50 billion of service contracts awarded by the Department of Defense each year.

While I am disappointed with the reductions that were made in the operations and maintenance accounts, I remain committed to focusing our efforts towards ensuring the readiness of our military services. I believe further advances in sustainment, restoration and equipment maintenance are possible, in particular increasing attention to corrosion prevention technologies and products. As I know from the military facilities in Hawaii and elsewhere in the Pacific, maintaining military equipment and facilities in wet, salty, and hot environments is a significant challenge. The conference report authorizes $27 million for equipment and testing to prevent the corrosion of military equipment. I look forward to continuing to address the issue of corrosion in the future as its impact on readiness is significant.

I am pleased to note that the conference report includes an event-driven implementation of the Navy-Marine Corps Intranet to ensure that the program is fully tested and proven as it is introduced into the Navy and Marine field units.

I also want to highlight the provision in the conference report which directs the Department of Defense to develop a comprehensive plan for addressing environmental problems caused by unexploded ordnance on current and former military facilities. I believe this is very important as we continue to address the issue of encroachment and its impacts on readiness and training.

While we have more work to do to ensure the readiness and training of our military, the conference report is a significant step forward. I join my colleagues in supporting this important legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I rise in support of the Defense authorization bill and commend Senator LEVIN and Senator WARNER for their great efforts. They have crafted a bill that will provide materiel assistance and support to the men and women of our Armed Forces.

This bill includes, among other things, a targeted pay raise for our military, authority for military personnel to transfer unused Montgomery GI bill benefits to their dependents. This was a particular concern of Senator CLELAND, and he should receive particular commendation for his unfailing efforts over several years to get this provision enacted into law. Today it is part of the law.

In addition, this legislation will include a base closure round for the year 2005, which is something very important, although very controversial. It is important to move from a cold war infrastructure to a post-cold-war infrastructure, as we have done with our personnel and force structure, and this legislation will do that.

However, today this conference report has been overshadowed by the President's announcement that he proposes to withdraw from the Anti-Ballistic Missile Treaty. As chairman of the Strategic Subcommittee, I spent long hours examining and looking very closely at the administration's plans for missile defense.

I worked closely with all my colleagues, particularly the ranking member, Senator ALLARD of Colorado. We may have disagreed on issues, but we worked together to try to ensure all the information was available to our colleagues.

I believe the legislation we proposed in committee represented a sound balancing of the need to develop particularly theater missile defense but also to develop national missile defense. It did so cognizant of the fact that to deploy such a national missile defense would be violative of the ABM Treaty and would be a threat to very delicate arms control agreements that have evolved over decades.

Our legislation was brought to this floor in the wake of September 11, and in the need, in a very real sense, to provide a rallying point of consensus rather than an opportunity for further debate, our legislation, which reduced the

appropriations for national defense by $1.3 billion, was modified significantly to give the President the option to apply this $1.3 billion to ballistic missile defense or to counterterrorism. I believe as we look very carefully and very closely at the threats we face today, the terrorism effect is more immediate and more central to our concerns of this moment. I hope the President will take that opportunity to apply those resources at $1.3 billion to counterterrorism.

Today, the President's announcement has been greeted by different opinions in different venues. My impression is that his announcement is both unwarranted and unwise. It is unwarranted because we are far away from the time that we have the technology to effectively deploy a national missile defense. It is also many years before I sense that we need to conduct tests that would be violative of the ABM Treaty. It is unwise because I think we are jeopardizing our relationship with Russia. Although their immediate response might be muted in some respects, what we will see is less than enthusiastic cooperation on a whole spectrum of cooperative efforts on which we need their help and assistance, from antiterrorism to the securing of their nuclear materials, to the securing of their biological materials. In this sense, it represents a departure from an endeavor over many decades, to erect a regime of arms control together with the keen awareness of our relationship with Russia.

I believe we have plenty of time to develop, and should develop, an adequate system and then face the decision of deployment and the decision of the treaty perhaps years from now. In October, Secretary Rumsfeld suggested there were four potential tests that would violate the treaty. As a result, he was canceling those tests. I think in fact that might have been a situation where those tests easily could have been postponed and therefore the decision could have been easily deferred with respect to the treaty.

One of the activities in question, for example, was the use of an Aegis ship radar to observe a missile defense test, clearly in violation of the ABM Treaty. The problem is the development of a sea-based missile defense system is at least a decade away. As a result, to rush forward and try at this point to insert a test of that nature suggests to me there was more interest in bumping up, as they say, against the treaty rather than bringing to the field a system that will work.

The system that is the most advanced is the land based national missile defense system. Indeed, this system, too, has plenty of room for further research and development before it is necessary to go ahead and call into question the ABM Treaty.

The President today called the ABM Treaty a relic, a vestige of the cold war. The dynamics of world powers have definitely changed. But the reality is clear that nuclear weapons still are present in the world, they still must be contained, their use prevented—we hope. In this respect, we still have a need for a structured arms control regime, a structure that I think will not be aided by the abandonment today by this administration of the ABM Treaty.

Now, there is encouraging news. There is news that the Russians and the United States may, either through treaty or by unilateral decision, reduce their warheads. That would be progress.

But I do believe we are sending a signal not just to the Russians but to the rest of the world that the United States is stepping back from multilateral treaties and bilateral treaties which will further the cause of arms control. That will set not only the wrong tone but indeed perhaps the wrong direction.

The other aspect of this unilateral approach is the fact that it may not provoke an immediate and demonstrable adverse reaction from Russia, but as I said before, it will inhibit the kind of full-fledged cooperation that we need to address the more immediate threat of terrorism. We recognize today that Russian assistance in many ways has helped immensely in our struggle in Afghanistan. The use of their intelligence sources and the fact that they have, in an economic sense, continued to produce petroleum so that energy prices remain low are examples of their cooperative efforts.

I ask whether or not, given our unilateral withdrawal, given our unwillingness to continue a dialogue with respect to treaty modifications, would essentially undercut other areas of cooperation that, I argue, also are extremely necessary.

The proliferation of nuclear materials, the presence of vast stocks of biologic materials—all of these within Russia and all of these with questionable security mechanisms—raise a profound issue of our security. This afternoon in our committee we had a hearing with respect to the control of our nuclear weapons, and we have elaborate procedures, expensive procedures. I suggest the Russians probably do not match us with those procedures but they should. That is an example of cooperation we have to undertake immediately, cooperation that might be undercut.

China has expressed concern—another area we have to consider—in terms of their ability to deploy more missiles, to provide more sophisticated warheads with more penetrating aids, with more decoys, those things that will make the world less stable, the nuclear balance less stable.

I believe we have, today, taken the wrong path. Rather than continuing to work for a structure of arms control agreements, we have turned away from that structure. I hope the President not only recognizes perhaps the arguments we are making this evening, but truly works to reach out to try to develop more cooperative efforts with Russia that are to our mutual advantage; also, that we would recognize we still have an obligation to develop a structure of arms control agreements that will make the world safer.

The decision today to withdraw is, again, in my view, unwarranted by the circumstances and unwise. I believe in the long run it will not aid materially our security.

I hope the provisions we have included in this legislation that provide for overview of the Ballistic Missile Defense Program, that provide the option to use funds not only for ballistic missile defense but for counter-terrorism, will be used by the administration to pursue those aspects of counterterrorism and also a prudent development program for ballistic missile defense.

I yield the floor.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from Virginia.

Mr. WARNER. Our good friend from Rhode Island is a valued member of our committee, very hard working, very industrious. I expect it will be that situation for an indefinite period as the years roll by. He had a distinguished military career himself, a graduate of West Point.

But I do have a few differences of view. And my good friend, the chairman, utilized these same key phrases I keep hearing. That is, we have a greater threat to our Nation from trucks, ships, or an airline that might bring in a missile or some type of nuclear device. We are putting so much money on missile defense at the time ''when it is the least likely means of delivery.''

I say to my friend, I listened carefully, but you don't rule out the possibility that someone could fire in anger but a single missile.

That is the fallacy that I find in this argument. They do not rule out, they do not address the possibility, that but a single missile would come in and in all probability that missile would cause devastation far greater than a device that perhaps was conveyed by a truck or otherwise.

So I think I just cannot accept the arguments, that concept of the ''least likely'' would deter this President or any President from proceeding toward a system to protect us against an attack by a limited number of missiles. That is all this President has asked repeatedly in his short term since he has been President. That is what he is asking. I hope Congress eventually delivers on that request by our President.

Then there is a second argument; that is, suppose a nation possessed nuclear weapons which potentially they could use against us. They might not fire the weapon. But as our President might be deploying our forces to a region of the world, perhaps not unlike what we are doing in Afghanistan with a coalition of other nations, the threat could come: If you deploy a single member of the Armed Forces of the

United States in an effort to deter or, indeed, engage an enemy on a foreign land, which enemy is acting against an ally or friendly country or in any way inimical to the cause of freedom, that missile could be used as a threat against our President. A single missile could make a dramatic change in the ability of a President, as Commander in Chief of our Armed Forces, to make a decision on a deployment.

So perhaps at some point those Senators who have spoken against this could answer the two questions that I leave pending at this point.

The PRESIDING OFFICER. Who yields time to the Senator from Alabama?

Mr. WARNER. I yield such time as our distinguished colleague from Alabama desires.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Chair and I thank Senator WARNER for yielding time to me. It has been a tremendous experience for me to serve on the Armed Services Committee—over 3 years now, under the leadership of Senator WARNER and now Senator LEVIN. It has been a pleasure to watch how the committee operates. On occasion, we have disagreements, but the committee works with such good grace and harmony and a generalized interest in what is best for America that I think it has been a good example for other committees.

Senator LEVIN, I thank you for your consistent courtesy, your brilliant leadership; and Senator WARNER, thank you for your leadership on this bill and in the past as chairman of the committee, now as ranking member.

I am generally very pleased with this legislation. Essentially, as I see it, we had about a $30 billion increase in expenditures planned in our budget item as we came forward this year over last year in actual appropriations dollars. Then we had a supplemental. Then we had the $20 billion supplemental that we passed after September 11. We are looking at a pretty significant increase in defense spending. Some of that, of course, is going to homeland defense that we were not expecting to spend just a few months ago, but essentially we have a nice increase in defense.

Our fundamental problem has been, as one of President Clinton's service secretaries said, we are in a death spiral in many aspects of our defense because we are carrying equipment—aircraft, ships, military vehicles—that are so old, it costs more to operate and maintain than is really justified. We really need to leap forward to a new generation of equipment, but we do not have the money to do that, and it is draining us in a lot of different ways.

But we made some progress this year and last year, with great pay raises, or at least significantly above the inflation rate for our men and women in uniform, trying to make sure they know we affirm them and the service they are rendering. We did that prior to September 11, and I think there is an even stronger feeling in America today of appreciation for our men and women in uniform and a respect for the job they do.

I feel pretty good about where we are going. We know the Army needs to transform itself. That is not an inexpensive process. We have not given it enough money to transform itself. For each year that I have been on the Armed Services Committee, we have been talking about the challenge, making sure the Army is capable of doing basically the very kind of things we are doing in Afghanistan today. We configured that Army to meet the Soviet Union and their vast capability and large standing Army and heavy equipment that they had, to confront them on the plains of Europe. But we do not have that threat in the same degree today that we did then.

So everybody who has given serious thought to the situation knows we ought to be moving toward an Army that can respond to the various kinds of threats we are likely to be seeing in the world today. If we can do that, we would have served our country well.

I do not think we have traveled far enough down that road, frankly. It has been impressive, however, to see that we continue to modernize, continue to exploit the technological advantage this country has in the world, and our ability to project power in a systematic way. I believe our modernization has caused the least possible damage to the defense related industrial sectors of this Nation in the process, and our ability to encourage innovation in these sectors while being smarter with our funding has increased dramatically.

It has been an extraordinary effort that is being carried on in Afghanistan. It points out anew that we need to continue that transformation. We need to continue to bring on aircraft that is unmanned in larger numbers, to continue to improve our smart bombs, smart missile capability, and to do it in a way that is most effective in different types of conflicts into which we might be entering.

I believe this bill has progressed in those areas, for which I am very delighted. One of the issues that we did have a dispute about and debate about in the committee was what to do about an anti-ballistic missile system in our country. I have been a real strong believer that this country needs a ballistic missile defense system, that we have dawdled too long, and it is time to move forward.

This Congress voted 94-to-3 to deploy an anti-ballistic missile system as soon as technologically feasible several years ago. President Clinton signed that legislation. I thought that pretty much settled it.

But we have had a good bit of debate since. President Clinton put in $5 billion for ballistic missile defense this year in his budget request before he left office. Under President Bush, that figure was raised $3 billion, to $8 billion.

That is an increase he felt very strongly about. That was an increase that reflected an interest of his that was very important. He campaigned on it. He said he wanted to do it. He has suggested ever since he was elected, and even before he was elected, that we ought to either negotiate a new treaty with Russia, or we ought to take advantage of the provisions in the treaty that allows him to get out of the treaty. Today I am pleased to see that he made the decision to remove the United States from that treaty.

Let me share a few things about this that I think are very important. We signed a treaty with the Soviet Union in 1972, with an ''evil empire'' that no longer exists. We now have a healthy, positive, growing, developing relationship with Russia—a country with which we want to continue to grow and develop our relationship. That old treaty in 1972 was no foundation for a relationship. The treaty only dealt with an ABM system. It only prohibited both countries from establishing an ABM system. It didn't develop a relationship of any significance between the countries. It was only a few pages. It only dealt exclusively with the details of prohibiting us from developing a ballistic missile defense and the Soviet Union from building one. It was a good idea at the time. Nobody had missiles but the United States and Russia, and perhaps our allies in Europe. We didn't feel threats from anyone but each other.

We had mutual assured destruction. So we agreed that neither country would expend billions of dollars to develop a system that really wouldn't be effective against the massive amount of missiles that each country had.

But now something has changed. Other nations have missiles. Lots of other nations have missiles. And they are buying more on the market today. We know the story of North Korea. We know about Iran's effort. We know other countries are expanding their ability to develop ballistic missile systems.

Thus, I think that leaves us in a vulnerable position. We are in an ironic position, if you think about it, by prohibiting this Nation from building a missile defense system to protect us from other hostile nations on the basis of a treaty from 1972 with a nation that no longer exists.

I don't believe Russia has any right—certainly no moral right and no legal right—to ask the United States to keep itself, as Henry Kissinger said, vulnerable to attack because of that old treaty. They have no right under the generally recognized rules of international relations to ask a nation to leave itself vulnerable to serious attack because of this old treaty.

The President said he wants a new relationship with Russia. We are going to move forward, with a great new future between us. But I am not going to

sit here and allow these United States to be vulnerable to attack from Korea, Iran, or any other nation that may acquire a nuclear missile and leave our people subject to attack.

As Senator WARNER said, it is a real problem, because a President may be eyeball to eyeball with some smaller nation and that nation may have a missile capable of hitting Los Angeles, New York, or Miami. They say: Mr. President, you move against us like you moved against Afghanistan and like you moved against Iraq—let us say that Iraq had one of these missiles, or half a dozen that could reach the United States and Mr. Saddam Hussein said, Mr. President, you move against us; I am launching my missiles immediately. Do not move against us. We don't want the President to be in that position, knowing he has no defense whatsoever against that kind of attack when we have the capability of building a defense to that attack.

I think we have made some great progress. I salute President Bush. I salute his National Security Adviser, Condoleezza Rice, who from the beginning of this administration has understood quite clearly the importance of moving beyond the ABM Treaty to a new relationship with Russia, but at the same time protecting us from attack from who knows what may occur in the years to come.

The bipartisan commission that was chaired by now-Secretary of Defense Rumsfeld concluded we would be vulnerable to that kind of attack by 2005. To have a national missile defense system in place by 2005, you have to get started on it. We may have ups and downs as we go forward.

But this movement by the President is in the right direction. We are moving away from this old relationship with Russia to a new relationship. We are now going to be able to build a missile defense system that is the best effective defense of America without having to configure it, to manipulate it to fit within this treaty's limitations. They were trying to develop a system that would fit within the very strict confines of this treaty.

I don't believe that was wise. It would be more costly. The system would be less effective than otherwise would be the case.

We are doing the right thing by withdrawing from the ABM treaty. We are doing the right thing in following President Bush's suggestion that we increase spending for ballistic missile defense system.

As I indicated, we have about $60 billion in increased defense spending this year. President Bush simply asked for $3 billion more than did President Clinton. That is not going to break the bank.

Don't let anybody tell you that by building a national missile defense system we don't have money to transform the Army, or we don't have money to buy high-tech weaponry, or we don't have money to do other things. In the scheme of things, this extra $3 billion is not the back breaker to any one program when we have a $330-plus billion defense budget.

Also, I am pleased to see one of the finest Senators on the floor, Senator COCHRAN. It was his legislation, I believe with Senator LIEBERMAN, that we passed overwhelmingly in this body 97-to-3 to deploy a national missile defense system as soon as was technologically feasible. He led that effort. He was ahead of his time.

I am sure he has every right to feel today that through that effort our Nation is moving on to a new day, geared more to the real threats that we face. I was pleased to support him in that effort, and Senator LIEBERMAN. They were on the right track.

I believe the President has shown consistent courage throughout this effort. There were a lot of people who said the Europeans are not going to go for this, the Senate is not going to go for this, and the Russians are not going to go for this.

I know the Russians knew we wanted to get out of the treaty, but they know it does not threaten them for us to get out of this treaty. They would like to see us maybe make some concessions on some other arrangements in order to justify them giving up a little here. I will not call it extortion, but they are trying to deal with us on this issue.

I am glad the President worked with them openly. He worked with this Congress openly. He worked with the American people openly. He campaigned on a national missile defense system. He has never waffled on it. President Clinton's was an unwise policy of claiming that he really wasn't building a national missile defense system, but just doing some research on it. We were testing it and doing things that were leading to the point where we were actually in violation of the treaty. A good lawyer could assert that.

President Bush has been honest from day 1. He said we have to get out of this treaty. We can't keep on being clever and manipulative about the wording of it while intending to build a national missile defense system. The treaty prohibits the building of a national missile defense system. If it says anything at all, it says you cannot build a national missile defense system.

The President's policy and the Congress' policy was to build a national missile defense system. So we couldn't play games forever with this treaty. It was time to put it out on the table. I salute him for biting the bullet on it. I believe it is the right step forward. I am hopeful that it will result in improving our ability to act in the world, giving the President some confidence that he does not have to be worried every minute that some missile might, by accident, be launched, or some small rogue nation might launch an attack on us.

Again, I salute our leaders, Senator LEVIN and Senator WARNER, and all the members of the committee for their hard work. We made some real progress this year. I hope that we can continue it next year. If we have a disciplined, longtime approach to our defense spending, we can recapitalize the military, we can transform the Army, we can continue the high-tech improvements in our Air Force, Navy and Marine forces and armaments, and make sure we are always ahead of the game.

We never want our men and women in combat fighting on behalf of the United States of America put in the same position that those soldiers of Iraq were in when they were being attacked on the road as they were retreating out of Kuwait. That is the kind of thing that this Nation must never allow to happen.

I believe we are doing the right things. We could use some more spending, but we are making progress. I am pleased to support this bill, and I thank our leadership for bringing it to pass.

I yield the floor.

Several Senators addressed the Chair.

Mr. WARNER. If the Senator will yield, I wish to thank our colleague from Alabama. He is a very valued member of our committee. I say to the Senator, we thank you very much for your work throughout this year to make this bill possible and for your very thoughtful comments about the chairman and myself.

Madam President, I yield such time to the distinguished Senator from Mississippi as he so desires.

Mr. LEVIN. Will the Senator from Mississippi yield for just 30 seconds?

Mr. COCHRAN. I am happy to yield to the Senator from Michigan.

Mr. LEVIN. I also thank our friend from Alabama for making a major contribution as the ranking member on the Seapower Subcommittee. We thank him for that effort. We thank him for his kind remarks in this Chamber. We have a very fundamental disagreement as to the way in which the ABM Treaty has been unilaterally withdrawn from, but that has not stopped us from having a very cordial, collegial relationship, or me thanking him for that contribution he makes to our committee. I thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, let me first thank the distinguished Senator from Virginia for yielding time to me on this conference report. And I commend the Senator from Alabama for his excellent, persuasive statement in support of the President's actions that he announced he was taking today to give notice that under the Anti-Ballistic Missile Treaty of 1972, the United States was withdrawing from that treaty. It took a lot of courage for the President to announce that today.

It has taken a lot of insight and hard work for the Senator from Alabama to rise to the position of leadership that he has in the Senate, on not only an

issue such as missile defense but on the wide range of issues that come before the Armed Services Committee on which he has served so effectively, and in a way that has reflected great credit on the Senate and on the State of Alabama.

I appreciate the kind remarks he has made about my efforts on the National Missile Defense Act of 1999, to which he referred in his remarks. There were a lot of people, a lot of Senators personally and actively involved in that effort. He was one of them. He was right at the forefront of the effort to convince the Senate we needed to pass that legislation, that we needed to state it as a matter of national policy and have it in a statute that it is the policy of the United States to deploy a missile defense system that will protect the United States, the territory of the United States, and the citizens of the United States from ballistic missile attack. And that is on the books.

This committee has also provided leadership in ensuring that authorities were given under this bill to the President to proceed to carry out that policy.

We have, in this conference report, $8.3 billion that is authorized for use by the administration to develop, to conduct research, to test in the missile defense programs that are underway now, to achieve the goals of not only the National Missile Defense Act of 1999 but the other responsibilities that the Commander in Chief has to protect deployed forces around the world from theater missile attack. They are already in the hands of adversaries around the world—Scud missiles other advanced missile systems—that threaten American forces that are deployed around the world.

We are at the point now of actually putting in the field defenses against these ballistic missiles. These are shorter range missiles. They are not ICBMs, and they do not travel as fast as ICBMs. But the Army has this program, the Theater High Altitude Area Defense. The acronym is THAAD, but it is not named for me.

The point I am making about that program is that it has been proven effective. It works. The tests have been phenomenally successful. There have been a series of tests with a missile hitting a missile to defend against and knock down an attack from these missile systems that would threaten our forces in the field. Those programs have proven that the defense against missiles is possible by using interceptor missiles to knock them down.

We were heartened just recently when a missile was fired from Vandenberg Air Force Base and intercepted from Kwajalein. We saw that effectively tested so that the missile hit its target, traveling at high rates of speed, way up in the atmosphere. It is phenomenal what the research scientists have been able to accomplish in this area.

When President Bush was running for President, he told the American people, as Senator SESSIONS pointed out, that he was in favor of developing and deploying a national missile defense system. He acknowledged there was an impediment to doing that, and that impediment was a treaty the United States entered into in 1972 with the Soviet Union, saying that neither would deploy a national missile defense system, except in one case: to protect a civilian population center or to protect an offensive capability. Those are the missiles that could be launched against the other side.

The United States decided to deploy an ABM system back then. And the Senate grudgingly approved it. It was in the process of being deployed, and they changed their mind and withdrew the authority for actual deployment of an ABM system that would protect our silos and missiles in the Dakotas. That is what we were going to protect.

The Russians, on the other hand, decided to deploy their system that was legal under the treaty to protect Moscow. And that system is still in place. People wonder: Why would you want to deploy an ABM system. Well, Russia did. Russia deployed the system, and they still have it. It is still there. So they must think they have an effective, workable missile defense system in place.

So those who wonder whether it is possible to have a system that is workable and effective, look at that example, and look at theater missile systems that we have deployed, that we are deploying, and we have tested effectively, and then the series of tests for the system that has been under development here in the United States.

So what I want to do is simply point out how important the decision is to our national security interests that the President has made. By ending the participation of the United States in this obsolete agreement—the ABM Treaty—President Bush has removed one of the central obstacles to ensuring the security of our homeland.

The President's actions come as no surprise. It should not surprise anyone either in the United States or our friends and allies around the world. At the beginning of his election campaign, President Bush made clear that he was determined to defend the United States from the threat of ballistic missile attack and that it was his belief that the ABM Treaty posed an unacceptable obstacle to doing this.

So with this action, the President is doing what he said he would do if it was necessary. He has made every effort to explain his views and his intentions to Russian leadership and to outline his plans for our friends and other allies around the world.

Since taking office, he and his senior officials have missed no opportunity to engage their Russian counterparts on the subject of missile defense. They have labored to convey the President's commitment to defending this Nation, the urgency of the threat, and the pressing need to move beyond the ABM Treaty.

Over this past year, the issue has been discussed frequently at the highest levels of the United States and Russian Governments. The Government of Russia has refused to cooperate in an effort to reconcile new security needs with this outdated treaty. Therefore, the President has been given little choice but to proceed as he has. He deserves great credit not only for his determination to defend our country but for his patience in attempting to resolve this disagreement by arriving at a new mutually satisfactory arrangement with Russia.

Much work remains to be done though. We have to determine which technologies are most effective, and we have to produce and deploy them. This work must be pursued with a sense of urgency.

For the first time in 30 years, the United States will be able to develop and field the best technology available to protect our citizens from missile attack, instead of being artificially constrained by an outdated and counterproductive arms control agreement. America's scientists, engineers, and policymakers will finally be free to work toward a missile defense that responds to the threat, rather than fear of violating an outdated set of rules that prohibited testing of new technologies.

Some have predicted the sky will fall if the United States exercises its right to withdraw from this agreement and that the relationship between the United States and Russia will suffer irreparable harm from such an action. Some surely will be renewing such claims. Some have today, and in the days ahead we will hear these remarks. But before becoming overwrought, it might be helpful to note what the President of Russia said about this during his recent visit to the United States. Asked about the conflict between the United States and Russia over the ABM Treaty, President Putin said this:

> Given the nature of the relationship between the United States and Russia, one can rest assured that whatever final solution is found, it will not threaten or put to threat the interests of both of our countries and of the world.

On September 11, ironically, the deputy chief of the Russian General Staff, Gen. Yuri Baluyevsky, said this:

> I can assure you that our relations will be continuing regardless of whether the U.S. withdraws from the ABM treaty or not. [It] will not affect these relations of trust.

President Bush has successfully moved us beyond the cold war. He has made it clear that he will not tolerate a relationship between our two nations whose most fundamental basis is the threat of mutual annihilation and whose currency is fear, suspicion, and mistrust. The President has said he wants a new relationship with Russia, not one marked by the deadly themes of a dangerous and bygone era. His decision to leave the ABM Treaty is a significant step in building that new

relationship, and the words of President Putin make it equally clear that Russia also wants a new relationship with the United States.

The debate over whether the United States should remain in the ABM Treaty is now over. As we move forward with the development and testing of missile defense programs, we should support our President and help him implement this important element of our homeland security.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I commend our distinguished colleague from Mississippi. I was the author of the Missile Defense Act of 1991. He was the author of the Missile Defense Act of 1999. We came to the Senate together, my distinguished colleague from Mississippi one number senior to me in this institution. I am always very respectful of that.

I wonder if I might engage my colleague and suggest he delivered his remarks with such eloquence and such authority that those who may not have followed this issue as closely as he and I and others don't realize that the ABM Treaty wouldn't let us utilize our developing technology in space. We couldn't build any part of the system up in space. We couldn't build any part of the system on the sea, incorporating the use of the U.S. Navy as platforms. Those are the things that our President took into consideration. We have one of the finest navies in the world. The American taxpayers have put enormous sums of money into that Navy. Yet we cannot use a single ship for that purpose.

I wonder if the Senator would detail some of the things that the ABM Treaty blocked which have now enabled our President and our Nation to move forward and utilize that technology. I remember in this debate years ago I used to explain that it would be more efficient, quicker, and less costly to the taxpayer to utilize these options which now finally are going to be on the table in 6 months.

I thank my friend.

Mr. COCHRAN. Madam President, if the Senator will yield for a response, I appreciate very much his kind remarks about my efforts on this issue.

He is absolutely correct. The effect of the ABM Treaty has been to deny the United States the legal right to test technologies, not only radars that are aboard ships, such as the Aegis fire control system radar, but also space-based elements such as sensors that could assist in making sure the system was effective, that it was workable, and that it did what we hoped it would do, and that was knock an incoming missile down before it struck the United States.

Just recently, as an example, Secretary Rumsfeld announced that some tests that had been planned on this program development schedule were being canceled because to undertake the tests as planned and as needed for this system would violate the terms and the understanding we have had with Russia since the treaty was ratified, the ABM Treaty. There were demarcation agreements that were agreed to in the Clinton administration that limited the testing programs we were undertaking. All of that now is set aside.

When the notice the President gives becomes effective, the notice of intent to withdraw, we will then be able to resume tests that had previously been scheduled that we couldn't undertake without violating the treaty. The President was forthright and honest about it. He wasn't trying to hide our violations or get away with something that was prohibited under the treaty. He was acknowledging that he couldn't proceed because he didn't want to violate the treaty. He didn't want to break the law. And treaties have the force and effect of law.

The Senator from Virginia is absolutely correct in the effect that that treaty was having on our ability to proceed as we had authorized, as we had planned, in conformity with a policy that had been adopted by the Congress and signed by the previous President.

His leadership and the efforts of Senator LEVIN, too, in helping to ensure that this conference report contains authorities and authorization for appropriations that will help us defend our homeland security are things for which we should all express our appreciation. I do that tonight with great thanks.

Mr. WARNER. Madam President, just one further comment: Understandably, there are those who disagree with the President, and they have accused him of a violation, but the Senator has correctly pointed out, the President was faced with, Do I move forward and break the law or do I comply with the terms of the treaty which are explicit? He gave notice of withdrawal in 6 months. He chose to stay within the terms of the treaty, and he in no way violated the law. Am I not correct?

Mr. COCHRAN. The Senator is absolutely correct in pointing that out. That is another mark of the strong leadership the President has provided on this issue. He has made everybody understand what the real problems were and why this treaty was outdated, why we needed to move beyond, why it was a relic of the cold war. And given the threats as they are emerging and exist today, we couldn't be safe confronting the new emerging missile capabilities from many countries all around the world.

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

The Senator from Michigan.

Mr. LEVIN. Madam President, let me very briefly say to my good friend from Mississippi, we have debated the question of whether or not this country should unilaterally withdraw from the ABM Treaty and whether that would make us more or less secure probably on half a dozen occasions. I have always enjoyed those debates. We have always enjoyed each other's company, even though we are on different sides of that issue. It has been my feeling—and I have expressed it in a statement today and on the floor earlier tonight—that we will be less secure as a result of unilaterally withdrawing from an arms control treaty. It is going to unleash negative forces, measures, countermeasures. We are going to find, I am afraid, in my judgment, that we are going to have a dangerous action/reaction cycle which is going to be precipitated. Defensive technologies are going to make us less secure because of the effort of other countries to overcome those technologies. We are going to have to try to overcome their efforts. We have debated that many times. The President has unilaterally given notice, and we are not going to have too many more of these debates. We will miss them because we have had fun doing this together.

Nonetheless, that is where we are. I think everybody agrees that the security of this Nation comes first. If I thought for 1 minute that withdrawing from this treaty unilaterally would make us more secure, I would recommend that we withdraw from this treaty. I think it leaves us less secure. If I thought it would make us more secure, I would not hesitate. I think everybody here has the goal to make us more secure.

We have had differences, also, on the Missile Defense Act of 1999. The good Senator from Mississippi quotes section 1 of that act. There were two sections to that act, which I always point out. Nonetheless, we are now past that point.

I wish to very briefly take up other parts of this bill, including one in which Senator REID has been so involved. I want to get to that point immediately because he is in the Chamber now. I want to pay tribute to the effort he has made to try to end what is a real unfairness in our law. The unfairness is that our disabled veterans are not permitted to receive both retired pay and VA disability compensation. This is something that is unique to our veterans—that they are not able to receive both the retired pay plus the disability compensation, which they have been awarded. It sounds unusual to say one is ''awarded'' compensation for disability.

We had a provision in the Senate bill to address this inequity. We would have allowed our disabled veterans, as others in the Federal Government employ and others in society, to receive both retirement and disability pay. The House leadership was not willing to have a vote on the budget point of order, which would have been made, which would have authorized this benefit to be paid. So we were left with no alternative.

Senator WARNER and I were both there in conference, day after day. We pointed out that Senator Harry Reid has been a champion on this, and there

are others in this body who have pointed out the inequity in the provision that prohibits the receipt of both retired pay and disability compensation.

At the end, we could not persuade the House to include this provision and have a point of order contested in the House. So what we ended up with was something a lot less than what we hoped we would get, and that is the authorization for these payments to be made, the authorization to end the unfairness, but it would still require an appropriation in order to fund them.

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

Mr. LEVIN. Yes.

Mr. REID. Madam President, I basically want to spread across the RECORD of this Senate my appreciation to the chairman and ranking member for the advocacy on behalf of the American veterans regarding this issue. This is basic fairness. Why should somebody retired from the military, who has a disability pension from the U.S. military, not be able to draw both? If that person retired from the Department of Energy, he could do both.

We have debated this, and there is overwhelming support from the Senate. It is late at night, but I want the RECORD to be spread with the fact that I deeply appreciate, as do the veterans, your advocacy. I want the RECORD to also be very clear that the Senate of the United States has stood up for this. The House refused to go along with us.

Also, I feel some sadness in my heart because we are going to come back and do this next year. Sadly, next year there are going to be about 500,000 less World War II veterans. They are dying at the rate of about 1,000 a day. So people who deserve this and would be getting this during this next year will not because the average age of World War II veterans is about 79 years now. So there is some heaviness in my heart.

We are going to continue with this. I don't want anybody in the House of Representatives to run and hide because there is no place to hide. This was killed by the House. For the third time, I appreciate Senator LEVIN and Senator WARNER.

So although I support the conference report for H.R. 3338, the National Defense Authorization Act for Fiscal Year 2002, I feel a sense of disappointment.

Once again this year, the conference report failed to include a provision on an issue that I have been passionately working on for the last couple of years. Namely, the concurrent receipt of military retired pay and VA disability compensation.

Unbelievably, military retirees are the only group of federal retirees who must waive retirement pay in order to receive VA disability compensation.

Put simply, if a veteran refuses to give up their retirement pay, the veteran must forfeit their disability benefits.

My provision addresses this 110-year-old injustice against over 560 thousand of our nation's veterans.

It is sad that 300–400 thousand veterans die every year. I repeat: 300,000–400,000 veterans die every year. They will never be paid the debt owed by America to its disabled veterans.

To correct this injustice, on January 24th of this year, I introduced S. 170, the Retired Pay Restoration Act of 2001.

My bill embodies a provision that permits retired members of the Armed Forces who have a service connected disability to receive military retirement pay while also receiving veterans' disability compensation.

The list of 75 cosponsors clearly illustrates bipartisan support for this provision in the Senate.

My legislation is very similar to H.R. 303, which has 378 cosponsors in the House. I'm thankful to Congressman BILIRAKIS, who has been a vocal advocate for concurrent receipt in the House for over fifteen years.

My legislation is supported by numerous veterans' service organizations, including the Military Coalition, the National Military/Veterans Alliance, the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the Uniformed Services Disabled Retirees.

In October, I introduced an amendment identical to S. 170 for the Senate Defense Authorization bill. The Senate adopted my amendment by unanimous consent.

Unfortunately, the House chose not to appropriate funds for this important measure.

This meant that the fate of my amendment would be decided in a ''faceless'' conference committee.

It pains me deeply to see that my amendment was removed in conference.

This is an old game played in Congress in which members vote for an amendment to help veterans, knowing full well the amendment will be removed at a later time.

When will decency replace diplomacy and politics when it comes to the treatment of America's veterans.

Why won't members of the House of Representatives join their Senate colleagues and right this wrong?

Why can't we do our duty and let disabled veterans receive compensation for their years of service and disability compensation for their injuries?

We gather at a solemn moment in the history of our great Nation.

On September 11th, terrorists landed a murderous blow against the World Trade Center and the Pentagon.

Right away, we saw the men and women of our Armed Forces placed on the highest level of alert. American troops then deployed to the center of the storm, set to strike against the enemies of all civilized people.

Our Nation is once again calling upon the members of the U.S. Armed Forces to defend democracy and freedom. They will be called upon to confront the specter of worldwide terrorism.

They will be called upon to make sacrifices.

In some tragic cases, they will be seriously injured or even die.

Most believe that a grateful government meets all the needs of its veterans, no questions asked.

I am sad to say this is not the case today.

I will continue this fight until we correct this injustice once and for all.

Mr. LEVIN. I thank Senator REID. He has been a champion of this cause. He has fought harder than anybody I know to end this inequity. The House leadership simply would not go along with this. We had a choice: We would either have a bill or no bill. That is what this finally came down to.

I believe Senator REID got something like 75 cosponsors for his provision. The Senate overwhelmingly supported this provision. I hope we have better luck next year in the House.

In the meantime, what we have done is we have authorized this, and perhaps our Appropriations Committee will be able to find the means to fund this. But until next year, I am afraid the number of veterans you have pointed out—perhaps 1,000 a day—will not get the benefits they deserve.

Mr. REID. I am on the Appropriations Committee. I will work toward that. I do want the RECORD to reflect my overwhelming support for this legislation. I feel badly this provision is not in it, but this is a fine piece of legislation on which the two of you have worked so hard.

Mr. WARNER. I also thank my distinguished colleague, Senator REID, for his leadership on this issue. We speak of a disabled veteran. I have had a lifetime of association with the men and women in the U.S. military. In my military career, I was not a combat veteran. But I served with many who have lost arms, legs, and lives. Those individuals, when they go into combat and lose their limbs, or suffer injuries, are somewhat reduced in their capacity to compete in the marketplace for jobs and do all of the things they would like to do as a father with their children and their families.

I take this very personally. I feel that some day the three of us—and indeed I think this Chamber strongly supports it—will overcome and get this legislation through. I thank the Senator for his leadership. He is right that the World War II veterans have died at a 1,000, 1,200, sometimes 1,400 a day, and many of those are being penalized by this particular law. So I thank the Senator and I thank my chairman. We shall renew our effort early next year.

Mr. LEVIN. I want to say one thing publicly. I want to again thank Senator WARNER. As he often points out, we came at the same time to this body. I have been blessed by having him as a partner and a ranking member for the short few months I have been chairman of the Armed Services Committee. Nobody could have asked for a better partner than I have had in Senator

WARNER. There are times, of course, that we don't agree with each other, but there has never been a time I can remember in 23 years where we don't trust each other.

There is nothing more important in this body than to be able to look somebody in the eye and say that. That is something I feel very keenly. Our staffs have been extraordinary in their work. This has been a very difficult bill.

In addition to thanking Senator WARNER personally, I thank our staffs for the work they have done. Every night when I call David Lyles—every night—he is there with the staff until 10 or 11 o'clock. I do not even call him after 11 o'clock because that is when I go to bed, or at least I try to. I am pretty sure he stays on after that. I know it is true with Senator WARNER's great staff, too.

Mr. WARNER. Madam President, I thank my great chairman. He succeeded me as chairman. We just moved one seat at the table in our committee hearing room. I guess that was the only change. Of course, other things took place.

As he says, the trust is there, the respect is there. We travel. We just finished an extraordinary trip. We were the first two Members of Congress to go into the area of operations in Afghanistan, having visited our troops in Uzbekistan, our troops in Pakistan and Oman, and then on up into the Bosnia region where we visited our respective National Guards who are serving there now.

I value our friendship. I look forward to hopefully many more years working together. I thank my friend. We shall carry forward. We do this in the spirit of bipartisanship on behalf of our men and women in uniform of the United States. We are here to do the people's business, and I say to the Senator, we have done the people's business. We have been aided in that effort by Judy Ansley, my chief of staff, having succeeded Les Brownlee; and Senator LEVIN's wonderful David Lyles, and Peter Levine. I use Senator LEVIN's lawyer's legal brains as much as I use my lawyer's legal brains.

I thank our distinguished Presiding Officer, again, for helping us here tonight. I again salute and commend my staff. I am a very fortunate individual to be served so well in the Senate. We share our staffs in many ways. They get along quite well together.

Mr. LEVIN. Indeed, they do.

Mr. THURMOND. Madam President, I rise in support of the Conference Report to accompany S. 1438, the National Defense Authorization Act for Fiscal Year 2002 and to congratulate Chairman LEVIN and Senator WARNER on this agreement. Having served both as the Chairman and Ranking Member of the Senate Armed Services Committee, I am aware of the challenges they faced in reaching this compromise. It is a tribute to their leadership and strong support for our national security and our men and women in uniform that the Senate is considering this Conference Report.

Typical of all conference reports, this legislation is a compromise between the House and Senate bills. It is not a perfect bill, however, in my judgment it is a bill that responds to the tragic events of September 11 and strengthens our national security. It will be critical to our effort to win the war against terrorism and meet the challenges of the ever increasing missile threat. To support these goals, the conference report provides more than $15 billion. Of equal importance to our soldiers, sailors, airmen and Marines is the fact that the legislation includes the largest pay increase for military personnel since 1982, increased housing allowance and substantial improvements to the military health care benefits.

I am especially pleased that the agreement includes many programs to support our reserve components who are finally becoming equal partners to the active forces. The bill increases full time manning by more than 1,700. It provides approximately $1.0 billion for reserves facilities enhancement and enhances both medical and commissary benefits for the men and women who serve our Nation both as a citizen and as a soldier.

As with any compromise, there are winners and losers. I am disappointed that legislation includes a provision that will severely limit the ability of the Federal Prison Industries to sell its products to the Department of Defense. This will have a significant impact on the prison system and its ability to provide programs to rehabilitate and occupy the prison population. I hope we will be able to reverse this setback with legislation that is pending in the Judiciary Committee.

Finally, I want to thank Chairman LEVIN, Senator WARNER, Chairman STUMP and Representative SKELTON for their strong support of Department of Energy programs. The conference report includes an increase of more than $700 million for key programs, including more than $200 million not requested in the budget to begin to recapitalize the nation's nuclear weapons complex infrastructure. As all those who have DoE facilities in their State know that much of the nuclear weapons complex infrastructure dates to the post-World War II era. It is critical that we begin to restore these facilities to ensure we maintain our nuclear capability.

This morning the House agreed to this conference report by a vote of 382 to 40. I urge my Senate colleagues to demonstrate no less support for our men and women in uniform and the Nation's security.

Ms. SNOWE. Madam President, I rise today to support the fiscal year 2002 National Defense Authorization conference report which we passed today. As a former member of the Senate Armed Services Committee and chair of the Seapower Subcommittee, I fully appreciate the hard work and long hours my colleagues in the Senate and their counterparts in the House have dedicated to the completion of this report.

I also want to acknowledge the chairman of the Armed Services Committee, Senator CARL LEVIN, and the ranking member, the senior Senator from Virginia, Mr. JOHN WARNER, for their superb leadership throughout the entire defense authorization process.

First and foremost, the conference report continues to recognized the invaluable contributions—especially since the tragic events of September 11 and the subsequent advent of the war on terrorism—of our service members through significant improvements to their quality of life. In addition to substantial pay raises of five to ten percent, the report includes over $10.5 billion for military housing construction, which is a desperately needed increase of over $500 million from last year's authorization; continues to improve upon the coverage and quality of healthcare for our active duty military members, retirees, and their family members; expands education benefits for service members and their families; and enhances the ability of active duty personnel to participate in federal, state, and local elections.

Secondly, the bill reaffirms Congress' commitment to the war against terrorism by meeting the funding requirements needed to support our Soldiers, Marines, Sailors, and Airmen that are on the front lines with the planes, vehicles, ships, and armament they need to carry out their missions. Whether providing over $30 million to improve field living conditions for the ground troops, augmenting the Army, Navy, and Air Force budgets by over $560 million for unmanned aerial vehicles, or increasing funding for F–15 and F–16 engine conversions, this bill supports the diverse missions our armed forces are accomplishing to meet the national military strategy.

Given my tenure of the Seapower Committee and home state of Maine, I cannot overlook the substantial funding for ship construction provided by this bill. The conference report addresses the future of our nation's Navy and the importance of recapitalization of our fleet by authorizing the construction of five new ships. This includes $3 billion for three DDG–51 *Arleigh Burke* class destroyers—the most advanced surface combatant in the world; $370 million for the new ammunition and cargo ship, the T–AKE; and $2.3 billion for a *Virginia* class attack submarine.

Additionally, the committee has laid substantial ground work for continuing to modernize our amphibious fleet in fiscal year 2003 through the authorization of $421 million and $260 million in advance procurement funding for the LPD–17 and LHD programs, respectively.

I am also pleased to see that the Committee did not lose sight of the administration's long-term goals of

transforming and modernizing the military. While we fall short of the Defense Department's goal of allocating three percent of the defense budget to investing in future defense development programs, it does include substantial funding to meet asymmetrical terrorist threats including chemical and biological weapons and develop the agility, mobility, and survivability necessary to meet the challenges of the future that we are glimpsing today in Afghanistan.

I voted for this legislation because I believe that it is critically important to ensure that our armed forces are fully prepared to carry out America's war on terrorism. However, I support the bill despite my strong opposition to provisions authorizing a round of base closures in 2005.

Even before the horrific attacks of September 11, 2001, I had serious questions about both the integrity of the base closing process itself as well as the actual benefits realized. Now, with acts of war committed against the United States, I do not believe this is the time to be talking about closure of bases.

The base closure provision in this conference report requires that the Department of Defense submit a comprehensive force structure plan to Congress detailing the relationship between defense requirements and infrastructure. This is something I have been calling for 4 years. But I believe we need this plan before we debate base closures, not after we have already authorized them. This is putting the cart before the horse.

Before we legislate defense-wide policy that will reduce the size number of training areas critical to our force readiness, the Department of Defense ought to be able to tell us that level of operational and maintenance infrastructure required to support our shifting national security requirements. Congress, instead, was pressed to authorize base closures essentially in the dark.

The administration and proponents of additional base closure rounds claim that reducing infrastructure has not kept pace with other post-cold-war military force reductions. They say that bases must be downsized proportionate to the reduction in total force strength. However, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Since the end of the cold war we have reduced the military force structure by 36 percent and have reduced the defense by 40 percent. But whiles the size of the armed services has decreased, the number of contingencies that our service members have been called upon to respond to in recent years has dramatically increased. And, keep in mind, Mr. President, once property is relinquished and remedied, it is permanently lost as a military asset for all practical purposes.

In addition, advocates of base closure alleged that billions of dollars will be saved. And yet, the Department of Defense has admitted that savings will not be immediate; that approximately $10 billion would be needed for up-front environmental and other costs; and that savings would not materialize for years.

I want to protect the military's critical readiness and operational assets. I want to protect the home port berthing for our ships and submariners, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defense our Nation and its interests. I want to protect the economic viability of communities in every State. And I want to make absolutely sure that this nation maintains the military infrastructure it will need in the years to come to support the war of terrorism. We must not degrade the readiness of our armed forces by closing more bases. so I strenuously oppose the base closure provisions win this legislation, and before it is a fundamental mistake to include it in the DOD authorization.

With the exception of the basis closure provisions, this defense bill takes a positive stem toward modernizing our armed services, meeting their operational and maintenance funding requirements, and improving the quality of service for our committed men and women of the military.

Mr. SCHUMER. Madam President, I rise today to express dissatisfaction with language included in the conference report on the National Defense Authorization Act for the Fiscal Year 2002 that repeals the requirement for a referendum on the future of U.S. military training on the island of Vieques, PR. Although, in the interest of national security, I voted for the adoption of the report, I am deeply disturbed by the manner in which the people of Vieques have been deprived of the right to decide for themselves as to whether or not they wish to allow the U.S. military to continue using their island as a military training facility.

I certainly agree with those who argue that in times like these, when the U.S. is heavily involved in military conflict, that we must take every possible step to ensure the readiness of our troops. However, I believe it is safe to say the people of Vieques have endured more than their fair share of sacrifice for the good of America, and the cause of U.S. military readiness. We must recognize the sacrifices made by the people of Vieques, and provide them with the consideration they deserve as American citizens.

By repealing the requirement that the people of Vieques have a referendum to decide whether or not the U.S. military is allowed to continue to presence on the Island, this Congress has taken a dangerous step toward curtailing the inalienable rights to which those who call the island home are entitled as U.S. citizens. I find that outcome to be deeply troubling.

As I close, I would like to make perfectly clear that I fully support the efforts of the U.S. military to maintain its readiness to defend our nation, as it is so bravely and effectively doing as we speak. However, I feel that the choice between maintaining readiness and protecting the rights of American citizens on Vieques is a false choice, and one that we do not have to live with. The Department of Defense, by its own estimates, if directed to do so should be able to leave the island by 2003 without a detrimental effect on military readiness. This knowledge makes the decision of this body to strip the people of Vieques of a voice in their future all the more perplexing.

Sixty years of bombing has taken its toll on Vieques. The US citizens of Vieques and Puerto Rico have been patient long enough. They should be permitted a free and fair ability to express their wishes, which is a cornerstone of our great democracy. The language in this Bill which pertains to Vieques diminishes the rights of the citizens of Puerto Rico and I believe the Senate should revisit this issue during the next session.

Mr. McCAIN. Madam President, I rise today in opposition to the conference report to accompany S.1438, the National Defense Authorization Act for fiscal year 2002. I am disappointed that the conference agreement did not include some key legislative provisions that I had sponsored in the Senate during the course of the normal legislative process which would have begun to transform the military as requested by the President. Some of the provisions in this bill that I find objectionable are provisions that: delay base realignment and closure, BRAC, authority until 2005, codify the anti-trade domestic source restrictions of the Berry amendment, and continue the unfair personnel policy which financially hurts disabled military retirees by reducing their earned military retirement. This is a broken promise to military retirees and their families, year after year. These are also the reasons why I did not sign the final conference agreement.

With respect to concurrent receipt, clearly, retirees who have incurred significant disabilities over the course of a military career deserve better than how they are treated today. Many such service members are compelled to forfeit their full-retired pay under current rules. I have stated before on the Senate floor, and I am compelled to reiterate now, retirement pay and disability pay are two distinct types of pay.

Retirement pay is for service rendered through 20 years of military service. Disability pay is for physical or mental pain or suffering that occurs during and as a result of military service. In this case, members with decades of military service receive the same compensation as similarly disabled members who served only a few years, with no recognition at all for their more extended, careers of service to our country. This is patently unfair

and more must be done to correct this problem.

I would also like to highlight that this year's defense authorization bill contained $1.3 billion in unrequested add-ons to the defense budget that will rob our military of vital funding on priority issues. While this year's total is less than in previous years, and is far less than the $4.5 billion in the defense appropriations bill, it is still $1.3 billion too much. We need to, and can do, better.

Over the past 6 years, Congress has increased the President's defense budgets by nearly $60 billion in order to address the military services' most important unfunded priorities. Still, it is sufficient to say that the military needs less money spent on pork and more money spent wisely to redress the serious problems caused by a decade of declining defense budgets.

We also must reform the bureaucracy of the Pentagon, this bill does not. We did not even make significant improvements requested by the President and the Secretary of Defense when he presented his budget for fiscal year 2002. With the exception of minor changes, our defense establishment looks just as it did 50 years ago. We must continue to incorporate practices from the private sector-like restructuring, reforming, and streamlining to eliminate duplication and capitalize on cost savings. More effort must be made to reduce the continuing growth of headquarter staffs and to decentralize the Pentagon's labyrinth of bureaucratic fiefdoms to change its way of doing business with its bloated staffs and its outdated practices.

In addition, more must be done to eliminate unnecessary and duplicative military contracts and military installations. Every U.S. military leader has testified regarding the critical need for further BRAC rounds. We can redirect at least $6.3 billion per year by eliminating excess defense infrastructure. There is another $2 billion per year that we can put to better purposes by privatizing or consolidating support and maintenance functions, something not considered in either body, and an additional $5 billion can be saved per year by eliminating ''Buy America'' restrictions that only undermine U.S. competitiveness overseas. Despite these compelling facts, the conference agreement on the contrary, includes several provisions that move demonstratively in the opposite direction.

The conference agreement delays a base realignment and closure, BRAC, round until 2005. There is no good reason to delay BRAC. By doing so, too many servicemen and women will continue to live in old and dilapidated barracks and homes because we have too many bases. Although I would prefer to say that base closing is a new idea, it isn't. In 1970, the Blue Ribbon Defense Panel, ''Fithugh Commission'', made reference to ''consolidation of military activities at fewer installations would contribute to more efficient operations and would produce substantial savings.'' In 1983, the President's Private Sector Survey on Cost Control, ''Grace Commission'', made strong recommendations for military base closures. In 1997, the Quadrennial Defense Review, QDR, recommended that, even after four base closure rounds in 1988, 1991, 1993 and 1995, the Armed Forces ''must shed excess infrastructure.'' Likewise, the 1997 Defense Reform Initiative, DRI, and the National Defense Panel, NDP, ''strongly urged Congress and the Department of Defense to move quickly to restore the base realignment and closure, BRAC, process.''

Defense Secretary Rumsfeld, former Secretaries Dick Cheney and William Cohen, the Chairman of the Joint Chiefs, all the Service Chiefs, the Congressional Budget Office, and other respected defense experts have been consistent in their plea that the Pentagon be permitted to divest themselves of excess infrastructure beyond what was eliminated during the prior rounds of base closings. Through the end of 1998, the Pentagon had closed 97 major bases in the United States after four previous rounds of BRAC. Since then, it has closed none. Moreover, the savings from closing additional unneeded bases would be shifted to force modernization.

The Department of Defense is obligated to maintain 23 percent excess capacity in infrastructure. When we actually look for the dollars to pay for the Unfunded Priority Lists as provided by the Service Chiefs, it is important to look to the billions of dollars that would be saved by base realignment and closure. Only 30 percent of the defense budget funds combat forces, while the remaining 70 percent is devoted to support functions such as bases. Continuing to squander precious dollars in this manner will make it impossible for us to adequately modernize our forces for the future. The Joint Chiefs of Staff have stated repeatedly that they desire more opportunities to streamline the military's infrastructure.

Total BRAC savings realized from the four previous closure rounds exceed total costs to date. Department of Defense figures suggest previous base closures will save, after one-time closing costs, $15 billion through fiscal year 2001, $25 billion through fiscal year 2003 and $6.3 billion a year thereafter. Additional needed closures can save $20 billion by 2015, and $3 billion a year thereafter. Sooner or later these surplus bases will be closed anyway. The sooner the issue is addressed, the greater will be the savings that will ultimately go toward defense modernization and greater pay raises for service members. Delaying the BRAC process, as we have done in this Conference Report, only harms force modernization and hurts the pocket book of service members, their families and military retirees.

We can continue to maintain a military infrastructure that we do not need, or we can provide the necessary funds to ensure our military can fight and win future wars. Every dollar we spend on unnecessary bases precludes our military leaders from spending scarce resources on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

In my view, the Committee on Armed Services took a step backwards by codifying in Title 10 ''Buy America'' restrictions which divert necessary funds to ensure our military is properly equipped. Every dollar we spend on archaic procurement policies, like ''Buy America,'' is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

It would be unconscionable not to examine the potential for savings from modifying congressionally-mandated protectionist procurement policy instead of codifying in Title 10 procurement legislation which obligates the Department of Defense to maintain wasteful spending. Secretary Rumsfeld and the Joint Chiefs of Staff have stated repeatedly that they want more flexibility to reform the military's archaic acquisition practices. We need to give them that flexibility.

I have spoken of this issue before in this Chamber and the potential impact of certain domestic source restrictions on bilateral trade relations with our allies. From a philosophical point of view, I oppose protectionist trade policy, not only because I believe free trade is an important means of improving relations among nations and a key to major U.S. economic growth, but also because I believe we must reform these practices in order to get more bang for our defense dollars.

It is my sincere hope that next year the chairman and ranking member of the committee will hold hearings on this issue and start serious reform. It is important to point out that the Secretary of Defense and the President do not like, nor do they want this protectionist policy, codifying it as the chairman and ranking member have done, absent any hearings or consultation with members of the committee who have strong views on this matter shows disregard to an informed or proper committee process. We must end once and for all the anti-competitive, anti-free trade practices that encumber our Government, the military, and U.S. industry.

Finally, I am disappointed that the conferees did not adopt legislation by Representative Heather Wilson, R-NM, that would rescind a congressionally-mandated provision added in the National Defense Authorization Act for Fiscal Year 1992 over the strong objections of the civilian and military leadership and would return Second Lieutenants and Ensigns to regular commissions vice reserve commissions

upon graduation from one of the Service Academies or certain ROTC scholarship programs.

Service Academies have a unique opportunity and special responsibility to provide an environment that cultivates, indeed demands, the internalization of honor, loyalty, integrity, and moral courage, the qualities essential to developing leadership. The core of our officer commissioning program are the Service Academies, this is not to say that the ROTC, OCS, and other critical commissioning programs are not outstanding, they are, just look at our current military leadership: Chairman of the Joint Chiefs, General Richard Myers, Chief of Naval Operations, Admiral Vern Clark, and Marine Corps Commandant General Jim Jones. I believe returning to regular service commissions for Academy and certain ROTC junior officers will inspire a core of career-oriented officers for our military.

In conclusion, I would like to reiterate my belief in the importance of enacting meaningful improvements for active duty and Reserve service members. They risk their lives in Afghanistan and elsewhere to defend our shores and preserve democracy, and we cannot thank them enough for their service. But, we can and should pay them more, improve the benefits for their families, and support the Reserve Components in a manner similar to the active forces. Our service members past, present, and future need these improvements. We also cannot continue with this ''business as usual'' mind set. We must reform the Department of Defense and not fall prey to the special interest groups that attempt to warp our perspective and misdirect our spending. We owe so much more to our men and women in uniform who defend our country. They are our greatest resource, and I believe they are woefully under-represented. We must continue to do better.

I ask unanimous consent that a list of items added to the defense authorization bill Conference Report by the Conference Committee be printed in the RECORD.

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

Fiscal Year 2002 DEFENSE AUTHORIZATION BILL CONFERENCE REPORT

[In million of dollars]

Title I—Procurement	
Aircraft Procurement, Army Rotary Wing: Helicopter New Training	$25.0
Other Procurement, Comm-Combat Communications: Improved High Frequency Radio, USAR	5.0
Shipbuilding and Conversion, Navy—Auxiliaries, Craft and Prior Year Program Costs: Mine Hunter SWATH	2.0
Missile Procurement, Air Force—Other Support, Space Programs: NUDET Detection System	22.7
Title II—Research, Development, Test and Evaluation	
Army:	
Materials Technology	5.0
Combat Vehicle and Automotive Technology	15.0
Countermine Systems	5.5
Medical Advanced Technology	5.0
Combat Vehicle and Automotive Advanced Technology	13.0
Environmental Quality Technology Dem/Val	7.0
Family of Heavy Tactical Vehicles	1.5

Fiscal Year 2002 DEFENSE AUTHORIZATION BILL CONFERENCE REPORT—Continued

[In million of dollars]

Navy: Communications, Command and Control, Intelligence, Surveillance	5.0
Air Force: Space and Missile Rocket Propulsion	2.0
Defense Wide:	
Cooperative DoD/VA Medical Research	2.5
Commercial Operations and Support Savings Initiative	15.0
Title III—Operations & Maintenance	
Army: (Budget Activity 01: Operating Forces):	
Land Forces Divisions: ECWCS/MSS	4.0
Land Forces Readiness:	
M-Gator	6.6
Range Instrumentation	6.0
Budget Activity 04: Administration & Servicewide Activities Logistics Operations:	
Logistics Support Activities: Maintenance AIT/RFID	9.0
Replacement Containers, Ft. Drum	1.0
Electronic Maintenance & Point-to-Point Wiring	4.0
Other, Army: Defense Language Institute Foreign Language Center	0.65
Basic Skills and Advanced Training, Navy: Professional Development Education Aviation Depot Apprenticeship Program	2.0
Other, Navy:	
Veterans Affairs Renovations/Great Lakes	2.0
United Through Reading Program	0.18
Marine Corps (Budget Activity 04: Administration & Servicewide Activities): Canceled Account, Full Spectrum Battle Equipment	6.8
Air Force (Budget Activity 04: Administration & Servicewide Activities):	
Logistics Operations: Aging Propulsion System Life Extension	10.0
Other, Air Force:	
Lafayette Escadrille	2.0
Scot Life Support System	6.0
Spares Information System	7.0
Defense-Wide (Budget Activity 04: Administration & Servicewide Activities):	
Defense Logistics Agency: CTMA Depot-level Actions	20.0
Office of the Secretary of Defense:	
Information Assurance Scholarships—Addition	3.5
Legacy Resource Management Program	6.5
Other, Defense-Wide:	
Impact Aid	31.0
Impact Aid—Children with Disabilities	5.0
Army Reserve (Budget Activity 01: Operating Forces):	
Land Forces: Division Forces ECWCS/MSS	2.0
Land Forces Readiness: Forces Readiness Operations Support Controlled Humidity Preservation	25.0
Army National Guard (Budget Activity 01: Operating Forces):	
Land Forces: Division Forces ECWCS/MSS	4.0
Other:	
Transfer Accounts: Env Rest, Formerly Used Defense Sites	40.0
Miscellaneous: Payment to Kaho'olawe Island	15.0
Department of Energy, National Security Program	
National Nuclear Security Administration Weapons Activities:	
Construction:	
Microsystem and engineering science applications (MESA), SNL	37.0
Atlas relocation, Nevada test site Las Vegas, NV	3.3
Renovate Existing Roadways	2.0
MILCON	
Alabama:	
Army:	
Fort Rucker Aircraft Parts Warehouse	6.8
Restore Arsenal Ammunition Surveillance Facility	2.7
Air National Guard: Dothan AGS Combat Communications Complex	11.0
Alaska:	
Army: Fort Richardson Mout Training Facility	18.0
Air National Guard: Juneau Readiness Center	7.57
Arizona:	
Army: Yuma Proving Grounds Range Improvements	3.1
Air Force: Davis Monthan AFB Child Development Center	6.2
Air Force Reserve: Luke AFB Add/Alter Squadron Operations Facility	1.4
Arkansas:	
Air Force: Little Rock AFB Fire Station	7.5
Army Reserve: Conway Reserve Center/Organizational Maintenance Shop	5.63
California:	
Army:	
Fort Irwin Direct Support Maintenance Shop	23.0
Monterey Defense Language Institute Barracks Complex	5.9
Navy: China Lake Naval Air Warfare Center Propulsion and Explosives Lab	10.1
Air Force:	
Beale AFB Communications Operations Center	7.9
Travis AFB Radar Approach Control Center	3.3
Army National Guard: Azuza Readiness Center	14.01
Air Force Reserve: March ARB Fire/Crash Rescue Station	7.2
Colorado:	
Air Force: Schriever AFB Secure Area Logistics Facility	11.4
Delaware:	
Dover AFB Fire Station	7.3
Florida:	
Navy: Pensacola Naval Air Station Consolidated Fire Station	3.7
Air Force: Tyndall AFB Add/Alter Communications Facility	5.3

Fiscal Year 2002 DEFENSE AUTHORIZATION BILL CONFERENCE REPORT—Continued

[In million of dollars]

Army Reserve: St. Petersburg Armed Forces Reserve Center	34.06
Air Force Reserve: Homestead ARB Add/Alter Communications Facility	2.0
Georgia:	
Air Force: Moody AFB Fitness Center	8.6
Hawaii:	
Army (Pohakuloa Training Area):	
Land Acquisition (Kahuku Windmill Site)	0.9
Land Acquisition (Parker Ranch)	1.5
Navy: Ford Island Water Line Replacement	14.1
Illinois:	
Army: Rock Island Arsenal Child Development Center	3.5
Indiana:	
Navy: Crane Surface Warfare Center Microwave Devices Engineering Facility	9.11
Defense-Wide: Newport Army Ammunition Plant Ammunition Demil Facility	66.0
Air National Guard: Fort Wayne IAP Upgrade Aircraft Parking Ramp and Taxiway	8.5
Kansas:	
Air Force: McConnell AFB Health and Wellness Center	5.1
Kentucky:	
Army: Fort Knox Multi-Purpose Digital Tank Range	12.0
Defense-Wide: Bluegrass Army Depot Ammunition Demilitarization Facility	3.0
Louisiana:	
Air Force: Barksdale AFB Control Tower	5.0
Navy Reserve: New Orleans Joint Reserve Base Joint Reserve Center	10.0
Maine:	
Navy: Portsmouth Naval Shipyard Bachelor Enlisted Quarters	14.62
Maryland:	
Army: Fort Meade Operations Facility (55th Signal Company)	5.4
Navy: St. Inigoes Navalex Communications Integration Facility	5.1
Defense-Wide: Aberdeen Proving Ground Ammunition Demilitarization Facility	66.5
Massachusetts:	
Air National Guard: Barnes ANGB Upgrade Support Facilities	5.2
Michigan:	
Army National Guard: Augusta TASS Instruction/Administration/ Barracks/ Mess Hall	13.32
Air National Guard: W.K. Kellogg Airport Munitions Maintenance and Storage Complex	9.5
Minnesota:	
Air National Guard: Duluth IAP Composite Aircraft Maintenance Complex	10.0
Air Force Reserve: Minneapolis-St. Paul ARS Consolidates Lodging Facility	8.4
Mississippi:	
Navy:	
Pascagoula Naval Station Fleet Operations Facility	4.68
Meridan Naval Air Station T–45 Aircraft Support Facility	3.37
Air Force Columbus AFB Radar Approach Control Center	5.0
Army National Guard: Batesville Readiness Center	3.05
Army Reserve: Gulfport CBC Controlled Humidity Storage Warehouse	12.18
Montana:	
Air Force: Malmstrom AFB Child Development Center	4.65
Nevada:	
Navy: Fallon Naval Air Station Water Treatment Capital Improvements	6.15
Air Force: Nellis AFB Land Acquisition	19.0
New Jersey:	
Army: Picatinny Arsenal High Energy Propellant Formulation Facility	10.2
Navy: Earle Navy Weapons Station Explosive Truck Holding Yards	4.37
Air Force: McGuire AFB Air Freight Terminal/Base Supply Complex	12.6
New Mexico:	
Army: White Sands Missle Range Professional Development Center	7.6
Air Force: Kirtland AFB Upgrade Small Arms Range Support Facility	4.3
New York	
Army: Fort Drum Training Area Access Road	18.5
Air National Guard: (Hancock Field):	
Civil Engineering Facility	1.5
Composite Readiness Support Facility	2.5
Niagra Falls IAP Fuel Cell/Corrosion Hangar Addition	2.8
North Carolina:	
Army National Guard: Fort Bragg Military Education Facility	8.29
North Dakota:	
Air National Guard: Hector IAP Weapons Release Systems Complex	5.0
Ohio:	
Air Force Wright-Patterson AFB, Security Gate, Base Entrance	3.4
Army National Guard:	
Bowling Green Readiness Center	3.2
Coshocton Readiness Center	2.63
Air National Guard: Springfield-Beckley Municipal Airport	10.6
Oklahoma:	
Army National Guard: Oklahoma City Readiness Center	9.32
Oregon:	
Army National Guard: Eugene Joint Armed Forces Reserve Center	8.3

Fiscal Year 2002 DEFENSE AUTHORIZATION BILL CONFERENCE REPORT—Continued

[In million of dollars]

Pennsylvania:	
Navy: Philadelphia Naval Foundry and Propeller Center Machine Shop Modernization	14.8
Army Reserve: Johnstown Transient Quarters	3.0
Rhode Island:	
Navy: Newport Naval Station Unmanned Undersea Combat Vehicle Laboratory	9.37
South Carolina:	
Army: Fort Jackson Central Energy Plant	3.65
Air Force Shaw AFB Education Center	5.8
South Dakota:	
Air Force: Ellsworth AFB Live Ordnance Loading Area	12.2
Air National Guard: Joe Foss Field/Souix City Runway/Taxiway Improvements	6.5
Tennessee:	
Air National Guard: Nashville IAP Replace Aircraft Maintenance Complex	11.0
Texas:	
Army:	
Corpus Christi Army Depot Energy Disassembly and Cleaning Facility	10.4
Fort Bliss Replace Elevated Water Tanks	5.0
Air Force:	
Laughlin AFB Security Forces Complex	3.6
Sheppard AFB Fitness Center/Health and Wellness Center	8.2
Dyess AFB C–130 Squadron Operations Facility	16.8
Navy Reserve: Fort Worth Joint Reserve Base Bachelor Enlisted Quarters Modernization	9.06
Vermont:	
Air National Guard: Burlington IAP Vehicle Maintenance Complex	5.6
Virginia:	
Navy: Little Creek Naval Amphibious Base Personnel Support Facility	9.09
Air National Guard: Fort Pickett Maneuver and Equipment Training Site	10.7
Washington:	
Navy:	
Puget Sound Naval Shipyard Industrial Skills Center	14.0
Whidbey Island Naval Air Station	3.9
West Virginia:	
Army National Guard:	
Williamstown Readiness Center	6.43
Glen Jean Reserve Center/Organizational Maintenance Shop	21.38
Air National Guard: Yeager Airport Base Civil Engineer Maintenance Complex	4.1
Wisconsin:	
Air National Guard: Volk Field Control Tower	5.7
Total FY02 Defense Authorization Bill Conference Report Pork=$1.3 Billion	

Mr. BIDEN. Madam President, 9 months ago I stood before this body as a proud cosponsor of the Retired Pay Restoration Act of 2001. This bill, which I also cosponsored in the last Congress, seeks to redress a major inequity that has resulted in a serious slight to the dedicated men and women who have selflessly served our Nation. It is an injustice that has puzzled me for decades.

Current law bans so-called ''concurrent receipt'' of VA disability compensation and military retired pay, so that the amount of any VA disability payment to a military retiree is subtracted from the monthly retirement check. The obvious flaw of this rule is clear to the vast majority of the members of this body and to most members of the House. In its original form, this legislation garnered 78 cosponsors in the Senate and a whopping 378 members in the House. It seems that this was something that should have made it through the Conference Committee process without much question. But, unfortunately, what we saw emerge from conference was a real disappointment to me, to many Members of this body, and most of all, to our brave men and women—both those who have served in the past and those who continue to serve and continue to face the risk of disability.

Here was an opportunity—a real chance to address a serious inequity and we let it fall by the way side. What message are we sending to our Armed Services? This incongruity only hurts those men and women who have devoted the majority of their working lives to our Nation because it only affects military retirees. If a soldier retires from the service after 20 years and has sustained a service-connected disability along the way, then their VA disability payments are subtracted from their military pensions. It makes no sense that those in uniform who suffer a service-connected disability end up being penalized for deciding to remain in the military, while those who chose to leave the military receive their disability payments along with any pension they may receive from an additional employer. The longer you serve in the military, the more you are penalized. Does this make sense? It doesn't to me. They surely have earned both.

We have been fighting this fight now for too long. Year after year, it is brought to the floor and year after year Senators stand up and sing its praises. Now more than ever, Americans are painfully aware of what the sacrifices of our Armed Forces mean to us all. The horrific attacks upon our country on September 11 and the recent 60th anniversary of the attack on Pearl Harbor have made us all appreciate the millions of Americans who have selflessly served our nation and continue to protect our freedoms today. When our troops eventually return from serving in Afghanistan, undoubtedly there will be some among them who will find themselves penalized by our inability to correct this wrong. I am frustrated that even in this time when the importance of our troops is more evident than ever, we continue to shortchange our veterans.

So here we are—poised to send a vastly reduced version of legislation that had huge bipartisan support in Congress to the President for signature. It is my hope the minor concessions made under the Department of Defense authorization conference report will serve as a stepping-stone for future improvements. But still, how many more military retirees must see their VA disability payments reduce their retirement benefits before more meaningful changes are made and this inequality is ended?

We have troops in the field as I speak, putting their safety on the line to protect our way of life, and passage of this Defense Authorization bill is vital to our military operations. So it is important that this bill be passed. But, I want to put my colleagues and this administration on notice, this isn't the last battle in this war. One day those who put their lives at risk by wearing the uniform of this country, and who become disabled from their service, won't be punished for their duty. This is an unfairness that should have been corrected years ago, and an unfairness that will continue to plague those who offered their lives for the freedom we all enjoy. There is too much at stake here and I am not going to give up the fight to enact full concurrent receipt until we get this corrected.

Mr. CRAIG. Madam President, I want to address one provision of this very important bill having to do with Department of Energy facilities. This bill will require the Department of Energy to submit to Congress a plan for the infrastructure of the nuclear weapons complex. This will include those facilities that support the nuclear weapons stockpile, the naval reactors program, and nonproliferation and national security activities.

In my view, we have not seen adequate investment in the Department of Energy's facilities over the last 10 years. This is true of the facilities and infrastructure that support both the defense and civilian missions of the Department of Energy. In addition to its vital national security missions, DOE is a premier science agency of the U.S. Government. I am encouraged that my colleagues want to begin to address the decline in DOE's infrastructure. I think this plan will be an opportunity for DOE to begin a dialog with Congress on what levels of new investment are needed.

The Naval Reactors Program—a joint DOE and Navy program—has a very proud history at the Idaho National Engineering and Environmental Laboratory in my State. Although this program is not as active as it historically was in Idaho, the critical mission of fuel examination and storage continues at the Naval Reactors Facility. This work allows our country to have continued confidence in the ability to send our nuclear-powered naval vessels to any global hotspot or point of conflict, on short notice and fully fueled. In this way, nuclear power continues its critical role in our national defense.

Given the technical excellence of the Naval Reactors Program, I am confident that as long as the Navy sends its spent nuclear fuel to Idaho for examination and storage, they will provide for the safekeeping of this material until a deep geologic repository is opened. In fact, the Navy is party to a court-enforceable agreement with the State of Idaho that commits to this very objective. I look forward to working with my colleagues in Congress, with the Navy and with DOE on securing a robust nuclear infrastructure within the DOE complex.

Mr. LIEBERMAN. Madam President, I am very pleased that the National Defense Authorization Act, which the Senate has passed, includes a provision to allow Federal civilian employees and military personnel, as well as their family members, to make individual use of frequent-flyer miles and other promotional benefits offered as a result of official Government travel. This measure, found in section 1116 of the legislation, will correct a glaring inequity that exists between government

and private sector employees for work-related travel. The time has come for us to recognize that the current prohibition on frequent flyer benefits is unfair to our Federal workforce as well as unnecessary for good government. In fact, by making these benefits available to government workers, we will help make Federal service more competitive with the private sector.

I am especially proud that this measure applies to military personnel, many of whom are deployed in hostile environments, far from home and family. This time of war brings home the fact that every soldier, sailor, pilot and marine who serves our country around the clock deserves the best treatment we can offer.

This provision originated in an amendment to the Defense Authorization bill offered in the Armed Services Committee in September by Senator WARNER and myself, and was further developed as S. 1498, a bill which I introduced in October with Senators THOMPSON, AKAKA, WARNER, and VOINOVICH, and which provided the basis for the final language of section 1116.

I ask unanimous consent that a section-by-section analysis of this provision be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

SECTION 1116—RETENTION OF TRAVEL PROMOTIONAL ITEMS

Subsection (a)—Definition. The term ''agency'' has the meaning given under 5 U.S.C. §5701.

Subsection (b)—Retention of Travel Promotional Items. This subsection provides that government personnel and others may make personal use of frequent flyer miles and other promotional items received from official travel. Official travel may be either at Government expense or accepted by the Government from a non-Federal source. This provision is comprehensive, covering travel by civilian, military, and foreign-service personnel, family members when on official travel (as when personnel are being relocated), and any other individuals (such as academic experts or fellows) who may travel at Government expense (or accepted by the Government from a non-federal source).

Subsection (c)—Limitation. This subsection (c) provides that only ''agencies'' (as defined in subsection (a)) are covered by the section. Paragraph (1) of subsection (c) states that only travel at the expense of such an agency (or accepted by the agency from a non-federal source) is covered by the section, and paragraph (2) states that travel by an officer, employee, or other Government official who is not in such an ''agency'' is not covered. Thus, Government personnel in one agency are covered even if they are traveling at the expense of another agency, but Government personnel are excluded if they are not in any agency, even if an agency is paying for the travel.

As noted above, subsection (a) applies the definition of ''agency'' in 5 U.S.C. §5701, and that definition is further established by 5 U.S.C. §§101–105, which define certain terms used in 5 U.S.C. §5701. The section thus covers all executive and military departments and most other executive-branch agencies. In the legislative branch, the section covers the General Accounting Office, the Library of Congress, the Government Printing Office, and other legislative-branch agencies. All offices and agencies in the judicial branch are covered.

Governmental entities outside of the definition of ''agency'' in 5 U.S.C. §5701 are not considered to be covered by the existing ban on personal use of frequent flyer miles in section 6008 of the Federal Acquisition Streamlining Act, and have established their own rules and policies on this subject—some allow their employees to use frequent flyer miles and some do not. This section would not affect any of these entities. These entities include the U.S. Postal Service, government-controlled corporations, and the House and Senate.

Subsection (d)—Regulatory Authority. This subsection provides that an agency with authority to regulate official travel may issue regulations necessary to carry out subsection (a) with respect to promotional items granted in connection with such travel. So, for example, for travel by members of the foreign service, the Secretary of State may issue such regulations; for travel by members of the uniformed services, the secretaries of the respective services may issue such regulations; and for travel by most other civilian employees, the Administrator of GSA may issue such regulations.

Subsection (e)—Repeal of Superseded Law. This subsection repeals section 6008 of the Federal Acquisition Streamlining Act, which now requires that awards under a frequent traveler program or other promotional items accrued through official travel be used only for official travel.

Subsection (f)—Applicability. This subsection provides that the section shall apply to promotional items received before, on, and after the date of enactment.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

AMENDMENT NO. 2598

Mr. HARKIN. Madam President, what is the business before the Senate at this time?

The PRESIDING OFFICER. The business before the Senate is the McCain amendment to the substitute.

Mr. HARKIN. The McCain amendment to the substitute is the pending business.

The PRESIDING OFFICER. The McCain amendment to the underlying bill.

Mr. HARKIN. We would like to debate it. I ask if anyone knows where Senator MCCAIN is; we would like to debate the amendment. He is not here, so we cannot debate the amendment.

What I would like to do—I wonder if I can work with the ranking member to see if we can make some progress on this bill tonight. I would like to ask consent to withdraw the McCain amendment, with the understanding that tomorrow morning when we come in, the McCain amendment will be put in order on the substitute after we debate the Wellstone amendment and lay it aside tomorrow. We will not dispose of it until we come back next week.

I am saying that we take the McCain amendment off tonight so we can deal with other things, with the understanding or with the agreement, with the consent that tomorrow morning the first thing we will turn to is the Wellstone amendment, as I understand; when the debate is finished on the Wellstone amendment, Senator MCCAIN be recognized to offer his amendment on the substitute, and it can debated.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object, I just wish to respond to my colleague.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I think he is outlining a reasonable course of activity. As I understand the Senator's proposal, Senator WELLSTONE would debate his amendment; others would debate the amendment. As we know, a rollcall vote will not be in order, given the unanimous consent agreement, until Tuesday. Therefore, after that debate, this will be laid aside, and then Senator MCCAIN will be recognized so we can proceed then, as the Senator from Iowa has suggested, to amend the—whichever—the underlying amendment at that point; is that what the Senator said? In any event, whatever appears to be in order so he is able then to complete the debate on his amendment.

Mr. HARKIN. Maybe I should inquire of the President, what is the order right now?

The PRESIDING OFFICER. The McCain amendment.

Mr. HARKIN. Further inquiry, Madam President. Is there a consent agreement now in order which lines up some other amendments?

The PRESIDING OFFICER. No, there is not.

Mr. HARKIN. There is not. May I further inquire, where is the Smith amendment and the Torricelli second-degree amendment thereto in the order of things right now?

The PRESIDING OFFICER. Those are pending to the substitute.

Mr. HARKIN. If they are pending to the substitute, then the Wellstone amendment will be to the substitute, and so we will have to lay aside the Smith and Torricelli amendments tomorrow morning in order to go to Wellstone.

The PRESIDING OFFICER. That is correct, as well as laying aside the McCain amendment.

Mr. HARKIN. Well, then, let's see if we both have the same understanding of this. What we would do tomorrow morning is lay aside the pending Smith amendment and the Torricelli second-degree amendment thereto. We would

then proceed to debate on the Wellstone amendment. When debate is finished on the Wellstone amendment, we would then go to the McCain amendment as an amendment to the substitute, at which time after the McCain amendment is debated, we would then return to the Smith amendment with the Torricelli second-degree amendment thereto?

The PRESIDING OFFICER. Provided that the McCain amendment has been withdrawn, the Senator is correct, and assuming that the Wellstone amendment is offered and subsequently the McCain amendment is offered.

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

The PRESIDING OFFICER (Mr. JEFFORDS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that the McCain amendment No. 2598 be withdrawn, and that when the Senate resumes consideration of the farm bill on Friday, the pending Smith and Torricelli amendments be laid aside and Senator Wellstone be recognized to offer an amendment regarding EQIP grants; that following debate in relation to the Wellstone amendment the amendment be laid aside, and Senator MCCAIN or his designee be recognized to offer his amendment regarding catfish, and that following the reporting of the clerk, the McCain amendment be laid aside; further, that the pending amendments may be set aside with the concurrence of both managers for the purpose of offering additional amendments.

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

Mr. HARKIN. Mr. President, basically the situation is this. We are open for business again. We could take amendments right now, but I can see that there are not many people around right now.

I want to point out again that we are on the farm bill. It is Thursday, December 13. It looks as if we will have another week and a day here. Probably next Friday we will adjourn.

We have to get this farm bill done. As chairman of the Agriculture Committee, I believe I have been more than lenient and willing to let other bills come up—the Education bill next Monday, tonight the Defense bill—but now it is the hour when we have to focus on the farm bill, and we have to get it done. So I intend to object to going to anything else. We will remain on this farm bill.

Obviously, conference reports are privileged, but for my part there will not be anything else to come before the Senate until we finish the farm bill. It will take unanimous consent to get off the farm bill and I, frankly, am serving notice right now that I am not giving consent for anything that keeps us from finishing the farm bill. If people want to vote against it and defeat it, that's their business. But at least let's get to a vote and let people know whether or not we are going to pass this farm bill or whether the will of the Senate is we do not want this farm bill. But we ought to have at least a vote this year.

Farm groups all over America have been writing and calling, asking us when we are going to get this farm bill done. We have done our job in committee. I point out again and again, every single title of this farm bill was passed unanimously out of the committee except one, the commodity title, and that at least had some bipartisan support.

I was fully aware that we would have an amendment on the floor by Senators Cochran and Roberts that was going to try to change the focus of the farm bill on the commodity title and some other titles. We have been wanting to see the Cochran-Roberts amendment. We have been hearing about it, but they will not bring it up. Where are they? They are not here. They were not here today, they were not here yesterday, and I daresay they will not be here tonight. Will they be here tomorrow? There is some sort of Cochran-Roberts amendment, but they will not offer it.

It is an unusual way to make legislation unless—unless it is the desire and the plan to stop this bill from going through this year. Maybe that is the plan.

We ought to have a finite list of amendments. We ought to know what amendments may be offered. I don't know what amendments are out there. I will ask tonight, and I will ask tomorrow, may we have a finite list of amendments? Is that possible?

Would we be able to finish and go to third reading by Tuesday night? Would that be possible? Could we do that? Or by Wednesday? Could we be finished by Wednesday noon? How about Wednesday night? How many amendments do we need to consider? We can't seem to get anything agreed to on this.

With all due respect to my friend and my ranking member, Senator LUGAR, I just hope we can reach some kind of finite list of amendments and get them listed.

I will be asking unanimous consent for that tomorrow. I will not tonight. But tomorrow I will ask unanimous consent whether by a certain time tomorrow we may have a finite list of amendments. If that is not acceptable, I will ask for such a list by Monday. I will see whether we can ever get to a point where we can have a finite list of amendments. If not, then it will be apparent that some do not want this bill to pass this year, for whatever reason.

Again, I am not saying this is necessarily so. But I am saying that is what it appears to be. We have to move ahead on the bill. Yet here we sit. We could have amendments tonight. It is not unusual to be in session Thursday night.

Senator LUGAR and I are on the floor. We are willing to work. We are willing to stay here and listen to debate and have amendments and vote. However, no one else is here, except the occupant of the chair, of course.

We just cannot seem to get the cooperation to get this farm bill moving. I hope tomorrow morning we will have some debate. I want to put on notice all offices who are watching on television right now that we will have amendments tomorrow. There will not be any votes tomorrow. That has already been agreed to. But we will have amendments tomorrow, and amendments will be debated. Then they will be set aside. We have tried to stack votes for them on Tuesday. There won't be any votes on Monday either.

We will have debate tomorrow. We will stack the votes on Tuesday. But there will be debate on amendments tomorrow.

I say to anyone who has amendments to offer that they should offer them tomorrow because, again, members ought to know we are going to vote on cloture again on Tuesday morning. If cloture happens, and they have not offered their amendments, they may be out of order.

Again, if we don't get cloture on Tuesday, we will vote again on cloture on Wednesday. If we don't get cloture on Wednesday, we will vote again on it on Thursday. We will just see whether or not there are those in this body who want to absolutely stymie and stall and keep us from voting on a farm bill this year.

I believe I have acted in good faith. We brought the bill out of committee. We brought it to the floor. It can be amended. I love debate. I thought we had some good amendments offered. We have had some good debates so far. I am just hoping we can bring this debate to a conclusion at some point early next week and get this bill out of the Senate.

Again, I look around to see if there is anybody to offer any amendments. It is pretty quiet in here. Evidently, it looks as if we are not going to get any amendments here tonight.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I will not add to the frustration and discomfort of my chairman except to empathize with him, having stood in a similar situation 5 or 6 years ago when we last proceeded with the farm bill. I found it was seemingly an endless task. It does finally come to conclusion. That will be good news for the chairman.

I will work with him to try to identify the amendments so we can have appropriate debate and votes. Both the chairman and I realize we are near the end of the session, and conference reports on important bills are likely to intrude. The chairman recognizes that. He stated correctly this is the pending business. It ought to be our pending business, aside from the privileged motions on appropriations bills that the

leaders have designated for debate on Monday and early Tuesday.

I believe there probably is a finite set of amendments. I suggested earlier during the day that we will compile a list of 44 at that time. I think some of those perhaps disappeared in the course of the day. Hopefully others do not emerge.

But I think there are some basic issues involving payment limits, for example, that are still out there. Perhaps some are not parochial interests but interests of particular Senators in their States, such as, for example, the distinguished Senator from Oregon, Mr. SMITH, with a legitimate basin problem not requiring much time, although the Senate may or may not agree with his point of view.

Even if these are simple amendments, perhaps they will not be offered in the event they are already accepted. Perhaps the chairman and I will be able, with staff, to work together to see which amendments can be accepted.

We have been engrossed in very heated debate on sugar and on dairy—things that claimed our attention at the time so that we have not really sifted through those things that are perhaps acceptable.

But in the course at least of the next couple of days of debate, I think the situation will become more clear. The chairman knows I have a number of problems with the commodities title. I have already expressed those in the form of one amendment and others.

The chairman is also correct that we did reach remarkable accord on at least eight titles, perhaps nine. My memory fails as to how many are in our bill. But those are good titles to this piece of legislation. It doesn't mean that others may not at least insert lines in them, and they may do so, but at the same time they are in fairly solid shape.

The commodity situation is one that is bound to be of controversy because it has money attached to it. Nevertheless, we will have to reach decisions. I pledge to work with the chairman to do that. I will offer at least I hope comfort this evening and the belief that the chairman's day tomorrow will be a better one.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes.

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

WELCOME TO THE ARIZONA DIAMONDBACKS

Mr. MCCAIN. Madam President, I recognize the presence today of our world champion Arizona Diamondbacks who are visiting with the President later this morning.

We in Arizona are especially proud of them, as I know are all baseball fans across America who hate the Yankees as well. So I express, on behalf of myself, my colleague Senator KYL, and the people of the State of Arizona, how pleased and proud we are of the Diamondbacks and the fact that the President will be greeting them later on; he has a very deep connection and affection for professional baseball.

We are especially proud to have our Diamondbacks with us this morning to see our Capitol and know that all Americans, in a very difficult time in American history, were uplifted by the incredible series that was played by both teams; it diverted our attention and made us appreciate the greatness and strength of America.

Mr. HARKIN. Will the Senator yield? I want to compliment him and the Arizona Diamondbacks. What a great series, one of the best World Series I have ever watched, being a baseball nut like I am. I think what the Diamondbacks showed is not to ever count anyone out and never give up. I think the thing that came through with that team was people did not think they would be up for it and counted them out in the beginning. This team never gave up, and I think, as the Senator from Arizona said, at this time in our national life we needed to be reminded to never give up.

Mr. MCCAIN. I thank my friend from Iowa. It is also important to mention my friend from Missouri whose team also played a wonderful series early on with the Diamondbacks, and I think helped them prepare for the World Series.

Mr. BOND. Madam President, a couple of months ago I never thought I would say I am glad to see Curt Schilling again. We saw far too much of him as a Cardinal fan.

We congratulate the Diamondbacks on an outstanding year, a great victory and, as I think they used to say in Brooklyn, wait until next year we look forward to renewing the contest.

The Diamondbacks were magnificent and, yes, I guess I am even glad to see Curt Schilling.

Mr. MCCAIN. I thank my colleagues for their indulgence, and I appreciate them taking a moment to congratulate this wonderful group of Americans.

HONORING SERGEANT DAN PETITHORY

Mr. KERRY. It is my extraordinary privilege to share a few words with you today about Sgt. Dan Petithory. I am touched that his family asked me to do so, touched as a veteran who shares with Dan the bond of service in war, touched as a public official who has the privilege of expressing gratitude on behalf of everyone in our State and country whose lives are better for Dan's service, and touched as a citizen and father whose gratitude for Dan's contribution and sacrifice can never be adequately described.

No one in all of time has ever been able to soften the blow of a young person dying. I know all too well, as does Senator KENNEDY, how the suddenness of death can rob us of those we love and change life forever for those left to live it. But somehow through the tears, God helps us find our way.

In the natural order of things, parents are not supposed to bury their children. The pain of doing so is unfathomable and today America's heart and the hearts of all decent, civilized people ache uncontrollably for Louis and Barbara, for Michael and Nicole, and for all the members of their family.

But we are comforted above all by knowing this was not a loss in vain. This was not a waste. This was not a death that cannot be explained, difficult as the circumstances were. Sgt. Daniel Petithory died for all of us. He died believing in his country, his values, his brothers in his unit. He died in the extraordinary act of making it possible for others to live by the values he loved so deeply, so much more even than he loved his own life.

And we will never forget: Dan was a warrior on our behalf. Twice he went to war so we can live our lives in security and freedom. When the terrorists brought the frontlines here to America, Sergeant Petithory took the battle back to them in Afghanistan, just as he had taken it to Saddam Hussein in the Gulf War a decade ago. That time, he came home safely to America, to a New England community built on the values for which he'd fought so courageously, home to Cheshire and the love of his family which all the days of his youth had flown the American flag from their front porch. Now he is returned to us, resting under that flag to which he has added an indelible new strand of duty and honor. He gave his life to defend the values and security of our Nation and in doing so he joined the special legion of patriots who define the United States of America.

For his ultimate sacrifice in the performance of duty, Sgt. Petithory is to be awarded the Silver Star and the Purple Heart, badges of distinction from a grateful Nation. Following his courageous example, the duty is now left to us to spare no sacrifice to finish the mission for which Dan earned our eternal respect, gratitude, and awe.

I didn't know Dan personally. Nor did many who mourn him in Massachusetts and across the country. But now we know him as the neighbor next door; we know him as the kid who always wanted to be a soldier since he

was 4 years old playing with G.I. Joes in his family's backyard; the ''all American,'' athletic and funny, who became what he always wanted to be, the Army's best and America's best too. We know him as the boy at school who Alison Kachel remembers exalting in games of hide and seek, as she said, ''hiding like there was no tomorrow.'' While other kids hid behind corners and in the bottom of bushes, Dan hid in the tree tops, on the school roof, atop neighborhood homes. He was never discovered until the game was over, out of sight until his friends, exasperated, would look up and see him peering out behind a chimney, and declare him the winner, if they could find him even then.

Alison, today a police officer serving her hometown, told me simply: ''we've lost one of our elite.'' And indeed we should take a moment to honor what it really meant for Dan to have been a member of the Special Forces.

His unit commander, Captain Jason Amerine, who was wounded at the same time, said we should remember not how Dan and his brothers in arms died, but 'what they did beforehand.' What an extraordinary story of courage, initiative, and resolve: a member of an 11 man team, the elite of the American fighting forces, dropped into a valley deep inside enemy territory in Central Afghanistan, a part of the world they said looked like the ''back side of the moon.'' In the darkness in those initial tense moments they came face to face with Hamid Karzai, then the leader of a committed band of freedom fighters taking on the Taliban, and thanks to Dan and his fellow soldiers now about to become the leader of a free Afghanistan. Together they became one fighting force with a common mission. For 6 weeks the men in this small band of brothers depended on each other for life and death, calling in airstrikes, repelling Taliban counterattacks, organizing the opposition, carrying on their shoulders the hopes of all who were outraged by the acts of September 11. And in that far off place where danger was everywhere, Dan excelled on behalf of his Nation, proving, as his fellow soldiers said of him, that he was among the best America had to offer. On several occasions Dan directed the air attacks that turned the tide of battles. Captain Amerine said of him: ''It's an art. And the guy I had was the best I've ever seen.''

So today, we are all privileged to know Dan and we love him for his idealistic, wholehearted commitment to a cause bigger than any of us, for his enduring love of country and his enormous sacrifice for freedom. He has given a great gift to us all, the gift of a life worth emulating, the gift of his life for our's.

While the Petithorys' hearts will forever be heavier with the loss of their beloved son and brother, we pray that their pain is lightened to some measure by the knowledge that the whole country shares it, and that our whole country reaches out with an embrace of gratitude. We pray that their burden will also be lifted in part by the knowledge that the justice for which Dan sacrificed so much, is being delivered in Afghanistan, delivered for the brothers and sisters, husbands and wives, the children, of every American lost in New York, Pennsylvania, and the Pentagon. Louis and Barbara, that justice will be delivered for one more man, your son, Sergeant Daniel Petithory.

President Harry Truman, himself a veteran tested by war, committed to peace, 50 years ago honored the Greatest Generation and said of America: ''We are not a warlike Nation. We do not go to war for gain or for territory; we go to war for principles, and we produce young men like these.''

Once again, our peaceful Nation is at war. We did not seek this war, but we will win it for a principle that is timeless and values which shall forever define the greatness of yet another generation of citizen soldiers. And even in our grief, we can say with pride, and conviction, this is America, the Nation we love because it produces and keeps faith with men like Dan Petithory. God bless you Dan, and God Bless the United States of America.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred May 4, 1992 in Chicago, IL. Two lesbian women were beaten and taunted by several teens in a park. Donna Hayden, 18, and Kimberly Cary, 19, each were charged with battery and hate crime 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.

PROMOTING SAFE AND STABLE FAMILIES

Mr. DEWINE. Mr. President, I rise today to thank my colleagues for supporting and passing H.R. 2873, the Promoting Safe and Stable Families Program. Earlier this Fall, Senator ROCKEFELLER and I introduced similar legislation.

The bill we are passing today, like our Senate bill, reauthorizes four programs designed to help child welfare agencies establish and maintain permanency by providing grants to States and Indian tribes. The bill also includes programs that the President has proposed, which have my utmost support, as well as a technical correction that Senator ROCKEFELLER and I have proposed to ensure that special needs children continue to be eligible for adoption assistance.

The Promoting Safe and Stable Families Program provides vital services for thousands of at risk children in our Nation. The sad fact is that far too many children here at home are at risk, not because of the terrorist threat, but because they are neglected or abused by parents or because they are trapped in the legal limbo that is our child welfare system. Because of this, we have an obligation to these children. We have an obligation to protect these innocent lives.

With the passage of our bill, we are taking a big step toward meeting that obligation. By reauthorizing and improving the Safe and Stable Families Program, we can help strengthen families and ensure the safety of vulnerable children.

I was very pleased that during the Floor debate on the fiscal year 2002 Labor-HHS Appropriations bill, the Senate agreed to my amendment, which increased funding for the Safe and Stable Families Program by $70 million. This raised the program's overall funding level to $375 million.

The funding provided to the States through this legislation is used for four categories of services: family preservation, community-based family support, time-limited family reunification, and adoption promotion and support. These services are designed to prevent child abuse and neglect in communities at risk, avoid the removal of children from their homes, and support timely reunification or adoption. And, quite candidly, Promoting Safe and Stable Families is a very important source of funding for post-adoption services.

With a nearly 40 percent increase in the number of adoptions since the implementation of the Adoption and Safe Families Act, funding for adoption promotion and support services is especially vital. These services are necessary to ensure that adoptions are not disrupted, which risks further traumatizing a child.

Our reauthorization bill also amends the Foster Care Independent Living Program to extend the eligibility age from 21 to 23, so that children aging out of foster care can qualify for educational and training vouchers. Currently, too many of the 16,000 children youth who age out of foster care are not able to pursue educational or vocational training because they just don't have the money. This provision helps these young people get the education and career training they need and deserve.

The bill doubles the funding for the Court Improvement Program, CIP, and reauthorizes it through 2006. The CIP program provides grants to the States to develop a system of more timely court actions that provides for the

safety of children in foster care and expedites the placement of such children in appropriate permanent settings. This money helps ensure that State courts have the resources necessary to stay in compliance with the Adoption and Safe Families Act. In my own home State of Ohio, this money has been used to develop and implement an attorney certification program in family law. Additionally, the CIP money has been used to implement the Court Appointed Special Advocate, CASA, Program throughout Ohio and to implement five pilot programs that uniquely address family law issues.

Also, Senator ROCKEFELLER and I have added a technical correction to the bill that would clarify how adoption assistance payments are distributed. Prior to January 23, 2001, title IV-E adoption assistance payments were available to parents adopting children who met three special needs criteria, regardless of whether a child was placed by a private agency or the State foster care system. Unfortunately, some private agencies were using only one of the three special needs criteria to access payments for these adoptive families.

The January 23 adoption assistance decision draws a distinction between private and State foster care systems to prevent the misuse of funds. However, the decision has had the unintended consequence of adversely affecting agencies such as Catholic Charities and their ability to provide adoptive families with payments. Our correction focuses on the children—not the placement agency—by making special needs children adopted through voluntary relinquishment eligible for adoption assistance payments.

I am particularly pleased with some of the President's new initiatives authorized in our bill. For example, the President has proposed that the Department of Health and Human Services be authorized to provide competitive grants to support mentoring programs for children of incarcerated parents. With more than 2 million children with incarcerated parents, this program would provide valuable outreach to this vulnerable group of children.

I thank my colleagues for supporting our bill today. This is a good bill. It is an important bill. It is a major step forward in our continuing efforts to protect all children in this Nation.

AMBASSADOR STEPHAN M. MINIKES

Mr. CAMPBELL. Mr. President, as Chairman of the Helsinki Commission, I take this opportunity to welcome the recent swearing-in of Stephan M. Minikes to serve as U.S. Ambassador to the Organization for Security and Cooperation in Europe, OSCE. Prior to that ceremony, I met with Steve to discuss priority issues on the Commission's agenda, including the promotion of democracy, human rights and economic liberty as well as such pressing concerns as international crime and corruption and their links to terrorism.

The Commission remains keenly interested in the OSCE as a tool for promoting human rights and democratic development and advancing United States interests in the expansive 55-nation OSCE region. The terrorist attacks of September 11 represented an assault on the principles of democracy, human rights and the rule of law—core principles at the heart of the OSCE. It is crucial that we redouble our efforts to advance these fundamental principles throughout the OSCE region even as we pursue practical cooperation aimed at rooting out terrorism.

The OSCE provides an important framework for advancing these vital and complementary objectives.

I am confident that Steve will draw on his extensive and varied experiences as he assumes his duties as U.S. Ambassador to the OSCE and I look forward to working with him and his team in Vienna.

I ask unanimous consent that Secretary of State Powell's eloquent prepared remarks delivered at Ambassador Minikes' swearing-in ceremony be printed in the RECORD.

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

REMARKS OF SECRETARY OF STATE COLIN L. POWELL AT THE SWEARING-IN OF STEPHAN M. MINIKES

Ambassador Ducaru, Distinguished Guests, welcome to The Department of State.

It is my honor and pleasure today to swear-in a distinguished civic leader as our next Ambassador to the Organization for Security and Cooperation in Europe: Steve Minikes.

As a boy in Nazi Germany, Steve knew what it is like to live under oppression. His relatives died in concentration camps. He saw hate consume a country, ravage a continent, and cause a world war. Later, he saw a devastated Europe divided by force and a hot war replaced by a cold one. And since the age of eleven, when he found his new home in America, Steve Minikes has never for a minute taken freedom for granted—not his or anyone else's.

And so, when President Bush selected Steve to be his personal envoy to the OSCE, he knew that he was choosing a person who would be deeply committed to the fundamental principles of the Helsinki process.

The President knew that Steve needed no convincing that human rights, the rule of law and democracy are inextricably linked to prosperity, stability and security.

And the President knew that in Steve he was choosing someone who would work hard and well to realize, in all its fullness, the dream of a Europe whole and free.

And so, Ladies and Gentlemen, Steve Minikes will bring to his new position a deep commitment to serve the country that gave him a new life, and a strong determination to help the continent of his birth attain its highest hopes.

And Steve will bring a lot more to the table besides. He will bring expertise in and out of government that spans the law, management, banking, trade, energy and defense. He will bring a reputation for excellence and dedication that extends from the corporate world to Capitol Hill, from the Pentagon to the White House, as the presence here of friends from Congress and from a wide range of federal agencies attests.

Steve also brings his experience as a Director of the Washington Opera, which will serve him very well at OSCE. Think about it. Conducting multilateral diplomacy with 54 other sovereign countries—countries as big as Russia, Germany and the United States on the one hand, and as small as Liechtenstein, San Marino and Malta on the other. And each of them with a veto. That's a lot like staging the elephant scene from Aida—only easier.

The American people are truly fortunate that they can count on a citizen as accomplished and admired as Steve to represent them at so important a forum as the OSCE.

I know that Steve would be the first to agree with me, however, when I say that we would not have been able to contribute so much to his community and his country, had it not been for the love and support of his family. I want to especially welcome his partner in life, Dede and their daughter Alexandra and her husband Julian. A warm greeting as well to Dede's sister Jackie and brother Peter and their families. I think they all deserve a round of applause.

Ladies and Gentlemen: Twenty-six years ago when President Ford signed the Final Act in Helsinki, he said that the Helsinki process would be judged not by the promises made but by the promises kept.

Thanks in incalculable measure to the men and women who braved totalitarian repression to ensure that the promises made in Helsinki would be kept, all 55 members of the OSCE are truly independent nations today, able to chart their own course for a new century.

The promises made in Helsinki during the Cold War and reaffirmed during the post-Cold War period, are still fundamental to European security and cooperation in this post-post Cold War world.

And, like all his predecessors from Gerald Ford to William Clinton, President Bush is strongly committed to fulfilling the promise of Helsinki.

The President and I are counting on you, Steve, to work with our fellow member states, with the various OSCE institutions that have been established, and, of course, with the Members of the U.S. Commission on Security and Cooperation in Europe, to that noble end.

Human rights and fundamental freedoms remain the heart and soul of OSCE. Keep them in the spotlight. Democracy and the rule of law are key to fighting hatred, extremism and terrorism. Work with our OSCE partners, the Office for Democratic Institutions and Human Rights and the Representative for Free Media to consolidate democratic processes and promote freedom of expression. Help OSCE foster ethnic tolerance. Help it protect human dignity by strengthening efforts against trafficking in persons.

We also look to you, Steve, with your private sector experience, to explore ways to develop OSCE's economic and environmental dimensions. OSCE has done some good work on corruption and good governance. Portugal, the incoming Chairman-in-Office, has some interesting ideas on transboundary water issues. Help us think about what else we might do.

The President and I also depend on you to utilize and strengthen OSCE's unique capacities for conflict prevention and crisis management. To work with OSCE's High Commissioner on National Minorities in addressing the root causes of ethnic conflict. We will also look to you to support OSCE's field missions which are contributing to stability from Tajikistan to Kosovo.

In the security dimension of OSCE, good progress has been made in meeting conventional force reduction commitments. We will

count on you, Steve, to help resolve the remaining issues. The Voluntary Fund for Moldova is a valuable tool for getting rid of weapons and ammunition. Keep using it.

OSCE's action plan will be valuable in fighting terrorism. Implementation is critical. Keep the momentum going.

Institutionally speaking, OSCE's strengths remain its flexibility, the high degree of political will that is reflected in its consensus decisions, and the politically binding nature of its commitments. As OSCE considers how it might best adapt to changing needs, do not compromise these strengths. Build upon them.

Ladies and Gentlemen, next week, Steve and I will travel to Bucharest for a meeting of the OSCE Ministerial Council. There, the Chairmanship-in-Office will pass from the capable hands of Romania into the able hands of Portugal. And I will just as confidently witness the passing of the baton from Ambassador Johnson to Ambassador Minikes.

There is a great deal of important work ahead for the OSCE. There are still many promises to keep. And Steve, the President and I know that you will help us keep them.

You and Dede have President Bush's and my best wishes as you embark upon your new mission for our country.

And now it is my pleasure to administer the oath of office.

FREE SPEECH IN CZECH REPUBLIC

Mr. CAMPBELL. Mr. President, as Chairman of the Commission on Security on Cooperation in Europe, I have a keen interest in the fight against organized crime and corruption in the 55-nation OSCE region. I have raised this issue at the meetings of the OSCE Parliamentary Assembly, at Commission hearings, and in meetings with United States Government and foreign officials.

The impact of organized crime in the OSCE region is not limited to some far-off land. Organized crime and corruption directly bear on United States security, economic, and political interests at home and abroad. And at the OSCE Summit held in Istanbul in 1999, the Heads of State and Government of the participating States recognized that corruption poses a serious and great threat to OSCE shared values, cutting across security, economic, and human dimensions of the OSCE.

One of the best tools at our disposal in advancing the fight against corruption is a free and independent press that can both investigate and report on possible corruption. Unfortunately, it is no surprise that journalists who report on issues related to corruption sometimes find themselves the victims of harassment and, in extreme cases, violence.

Accordingly, I am disturbed by reports that the Czech Cabinet, led by Prime Minister Zeman, is seeking to have criminal charges brought against a political weekly, Respekt. Threats by the Prime Minister to shut down this publication followed the newspaper's coverage of the release of Transparency International's most recent report, Global Corruption Report 2001, in which the Czech Republic compared unfavorably to other former Communist countries in the region.

In fact, Peter Holub, the editor of Respekt, is not the only Czech journalist to get into hot water for trying to report on corruption. In January 1998, journalist Zdenek Zukal was arrested in connection with his reporting on alleged corruption in the locality of Olomouc and charged with ''spreading alarming information.'' His case has dragged on for some four years without resolution.

I understand the government's desire to get it's message out. But trying to achieve that goal by muzzling journalists and threatening them with jail time is not the way to do it. More to the point, it violates the OSCE commitments the Czech Republic has freely undertaken.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO TEX HALL

• Mr. DORGAN. Mr. President, I want to take a few minutes to congratulate Chairman Tex Hall for his recent election as president of the National Congress of American Indians. Tex is the chairman of Three Affiliated Tribes, Mandan, Hidatsa, and Arikara Nation, in my State of North Dakota.

As my colleagues know, the NCAI is the Nation's oldest and largest advocacy group representing Native Americans. I can vouch from my own personal experience in working with Tex that he will be a strong and persistent voice on behalf of Native Americans. Over the years, Tex and I have worked together on such issues as Indian education, Indian health care, economic development, water needs in North Dakota, and other issues. Tex has always been fighting, and rightly so, to increase the Federal Government's funding for Indian health, education, transportation, and other programs. Federal funding in these areas has been woefully inadequate, and I have been glad to join him in this fight.

A story from just last year illustrates what a strong advocate Tex is. I was working very hard with Tex to secure funding for the Four Bears Bridge, which is the only crossing point across the Missouri River for 150 miles and is especially important to the Fort Berthold Reservation because it connects the two halves of the reservation. The President's budget requested only $5 million for design of the new bridge, and at first it looked like even keeping that level of funding would be a challenge. After a lot of elbow grease, however, I was pleased to call Tex to let him know that I had been able to secure $35 million, which was the full Federal Government share for the bridge's design and construction. I was pretty proud of this accomplishment, and of course, Tex thanked me very graciously. Then, like the true tribal advocate that he is, he asked for more money.

Virtually his entire life, Tex has been a leader in one way or another. For instance, he served 11 years as principal and superintendent of the Mandaree school, and was named North Dakota ''Indian Educator of the Year'' in 1995. Prior to being elected tribal chairman in 1998, he served on the tribal business council for 3 years. He currently serves on countless boards and task forces, representing tribal interests in just about every important area of Indian policy. And he has even had time for his cattle and buffalo ranching and to found the All Nations High School Basketball Tournament and Tex Hall basketball camps.

Tex's election as president of NCAI comes at a very important time in the Federal Government's relationship with tribes. As is well documented, the Federal Government's century of mismanagement of Indian trust funds and resources is coming to a head with Interior Secretary Gale Norton's announcement of a reorganization of her Department's trust responsibilities. Chairman Hall has jumped right in as president of NCAI and has been leading the fight to ensure that tribes are meaningfully consulted before a plan with such enormous consequences is implemented.

I look forward to continuing to work with Tex in his new position on the many important issues facing Indian country and Congress. I offer him my congratulations and best wishes.•

A TRIBUTE TO WILLIAM C. WALTERS ON THE OCCASION OF HIS MOVE FROM THE PACIFIC NORTHWEST TO THE NATIONAL PARK SERVICE HEADQUARTERS

• Mrs. MURRAY. Mr. President, my Pacific Northwest colleagues and I have mixed emotions about the recent move of our friend Bill Walters to Washington, DC. Although he will be sorely missed in our region, where he served in the Seattle office as deputy director for the National Park Service's Pacific West region, we realize that he will be playing a crucial role as associate to the Director for the National Park Service in its headquarters office within the Department of the Interior. We wish him much success in this new posting.

After serving the Pacific Northwest so ably, Bill has demonstrated he is well suited for his new job. The regional leadership of the Park Service call him the ''regional dad.'' He has a charming way of being able to take care of things and make everyone feel good about the outcome. I imagine this is what the Director of the Park Service immediately sensed and why we lost a good person in the Northwest, but gained one at National Park Service Headquarters.

Bill arrived in Seattle in 1992, just as the new administration was talking about downsizing. He shepherded a reasonable approach to efficient management, reducing the numbers of employees without an employee losing his or

her job. More importantly, in consultation with me and other members of the congressional delegation, he maintained an office in Seattle, which provides direct service to the people of the Pacific Northwest.

The upheaval created by this reorganization was considerable. His calm voice of reason and genuine compassion made it possible for all of us to work at finding improvement, efficiency, and value in maintaining an office in the Pacific Northwest.

It was through this difficult process that I became acquainted with Bill. Since then, I have witnessed numerous examples of his good judgment and the gracious manner in which he brings people together around thoughtful solutions. He is a master statesman.

Bill is one of the few park professionals who has experience at the local, State, and Federal levels. This experience and his rare personal qualities make him a perfect negotiator and an effective steward of the public trust. Bill developed a impressive working agreement with the State of Idaho for managing the city of Rocks National Reserve. I witnessed his skill firsthand when we worked together in the creation of the city, county, and national partnership for Washington's Ebey's Landing National Reserve, which is bringing new vision and energy to the management of this unique park.

He was instrumental in helping to forge the partnership that resulted in the Vancouver National Historic Reserve along the Columbia River in my State of Washington. Without his personal involvement, the site would still be mired in controversy. Instead, we have Federal, State, local, and private entities working together to support a site that has 200 years of European history and countless years of pre-European archeology.

There is a quiet competence and goodness about this man that enables him to work collaboratively with NGOs, environmental activists, employees, allies, community leaders, and opponents alike. I have always appreciated his honesty and forthright character. Many in the Northwest have come to respect and appreciate Bill's open and engaging manner and professionalism. Bill represents park interests in a way that has made partners out of adversaries. You can't go very far in the Pacific Northwest without seeing examples of Bill's effective problem solving and sound stewardship.

We may have lost a skilled and trusted manager in the Northwest, but National Park Service Director Fran Mainella has gained a valuable associate who will serve her and the National Park Service well in the years ahead. We all benefit by having this man of integrity in Government service.●

HAROLD SCHAFER: A NORTH DAKOTA ORIGINAL

● Mr. DORGAN. Mr. President, one of my State's leading citizens has passed away and I want to reflect on what can only be described as a triumphant life. I extend my sympathy to his family in this time of grief. But I know his family is also celebrating his full life.

Harold Schafer is the classic story of a poor youth who became successful through old-fashioned entrepreneurship and flat-out hard work. He deserves our respect for that, but, more importantly, we ought to take note of what he did with his wealth.

Harold Schafer would not permit his capital to pile up in trust funds, and stock portfolios, and real estate investments. To what will be his ever-lasting credit, he worked just as hard at disbursing his money to good causes as he initially did earning it. The recipients of his generosity are legion, colleges and communities and authors and park boards and hospitals and youth groups and a cavalcade of individuals who needed a hand.

Most memorable is his re-creation of the historic and romantic cow town of Medora. Cradled in the spectacular Badlands of North Dakota, it's become the State's primary tourist designation. Because of the enormous investment and creative imagination that Harold Schafer poured into rejuvenating it, this storied village, a place where Teddy Roosevelt once lived, has become symbolic of the Old West. Harold Schafer's resurrection and promotion of Medora has made it a jewel of North Dakota's heritage and will forever be the crowning achievement of his life.

Harold Schafer has left us, but he has given us Medora, a sweet, handsome, proud, and historic place. There can be no question but that Harold is pleased with this very special legacy and North Dakotans are thankful indeed.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 288. Concurrent resolution directing the Secretary of the Senate to make a technical correction in the enrollment of S. 1438.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 78. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At 3:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 289. Concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.

At 6:04 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendments of the Senate to the bill (H.R. 2884) to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with an amendment, in which it requests the concurrence of the State.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

S. 1196. An act to amend the Small Business Investment Act of 1958, and for other purposes.

S.J. Res. A joint resolution providing for the appointment of Patricia Q. Stonesifer as a citizen regent on the Board of Regents of the Smithsonian Institution.

The enrolled bills and joint resolution were signed subsequently by the president by the President pro tempore (Mr. BYRD).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 990: A bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes. (Rept. No. 107–123).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 1632: A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to extend the deadline for submission of State recommendations of local governments to receive assistance of predisaster hazard mitigation and to authorize the President to provide additional repair assistance to individuals and households. (Rept. No. 107–124).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 861: A bill to make technical amendments to section 10 of title 9, United States Code.

H.R. 1840: A bill to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

H.R. 1892: A bill to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 2048: A bill to require a report on the operations of the State Justice Institute.

H.R. 2277: A bill to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

H.R. 2278: A bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 8: A joint resolution designating 2002 as the ''Year of the Rose''.

S.J. Res. 13: A joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Callie V. Granade, of Alabama, to be United States District Judge for the Southern District of Alabama.

Mauricio J. Tamargo, of Florida, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2003.

Marcia S. Kreiger, of Colorado, to be United States District Judge for the District of Colorado.

James C. Mahan, of Nevada, to be United States District Judge for the District of Nevada.

Philip R. Martinez, of Texas, to be United States District Judge for the Western District of Texas.

C. Ashley Royal, of Georgia, to be United States District Judge for the Middle District of Georgia.

David Preston York, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

Michael A. Battle, of New York, to be United States Attorney for the Western District of New York for a term of four years.

Harry E. Cummins, III, of Arkansas, to be United States Attorney for the Eastern District of Arkansas for the term of four years.

Christopher James Christie, of New Jersey, to be United States Attorney for the District of New Jersey for the term of four years.

Dwight MacKay, of Montana, to be United States Marshal for the District of Montana for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN:

S. 1815. A bill to amend the Agriculture and Food Act of 1981 to require the Secretary of Agriculture to conduct a pilot program under which the Secretary shall make grants to local units of government or local nonprofit organizations in the State of Arkansas to employ non-Federal resource conservation and development coordinators; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1816. A bill to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. THOMPSON):

S. 1817. A bill to amend the Internal Revenue code of 1986 to provide for student loan forgiveness tax parity; to the Committee on Finance.

By Mr. DURBIN (for himself and Ms. MIKULSKI):

S. 1818. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself, Mr. SESSIONS, Mr. CLELAND, Mr. COCHRAN, and Mr. DAYTON):

S. 1819. A bill to provide that members of the Armed Forces performing services in the Republic of Korea shall be entitled to tax benefits in same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Mr. CLELAND (for himself, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 1820. A bill to enhance authorities relating to emergency preparedness grants; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. WARNER):

S. 1821. A bill to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over, and to afford employees and Members full immediate participation in the Thrift Savings Plan upon commencing Federal service; to the Committee on Governmental Affairs.

By Mr. AKAKA (for himself and Mr. WARNER):

S. 1822. A bill to amend title 5, United States Code, to allow certain catchup contributions to the Thrift Savings Plan to be made by participants age 50 or over; to the Committee on Governmental Affairs.

By Ms. COLLINS (for herself and Mr. CARPER):

S. 1823. A bill to amend the Internal Revenue Code of 1986 to modify the exclusion relating to qualified small business stock; to the Committee on Finance.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 1824. A bill to authorize payments to certain Lama Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's irrigation works for 2001, to authorize funds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself, Mr. CRAIG, Mr. CRAPO, Mr. WYDEN, Mr. SMITH of Oregon, and Mrs. FEINSTEIN):

S. 1825. A bill to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho and tribes in the region for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 1826. A bill to authorize the Secretary of the Interior to conduct a study of the feasibility of providing adequate upstream and downstream passage for fish at the Chiloquin Dam on the Sprague River, Oregon; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. BAUCUS):

S. 1827. A bill to provide permanent authorization for International Labor Affairs Bureau to continue and enhance their work to alleviate child labor and improve respect for internationally recognized worker rights and core labor standards, and for other purposes; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself and Mr. HATCH):

S. 1828. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER (for herself, Mr. BROWNBACK, Mr. WELLSTONE, and Ms. MIKULSKI):

S. Res. 191. A resolution expressing the sense of the Senate commending the inclusion of women in the Afghan Interim Administration and commending those who met at the historic Afghan Women's Summit for Democracy in Brussels; considered and agreed to.

By Mr. LEVIN (for himself, Mr. WARNER, Mr. KENNEDY, Mr. THURMOND,

Mr. BYRD, Mr. MCCAIN, Mr. LIEBERMAN, Mr. SMITH of New Hampshire, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. SANTORUM, Mr. REED, Mr. ROBERTS, Mr. AKAKA, Mr. ALLARD, Mr. NELSON of Florida, Mr. HUTCHINSON, Mr. NELSON of Nebraska, Mr. SESSIONS, Mrs. CARNAHAN, Ms. COLLINS, Mr. DAYTON, Mr. BUNNING, Mr. BINGAMAN, Mr. DASCHLE, Mr. LOTT, Mr. LEAHY, Mr. BOND, and Mr. ROCKEFELLER):

S. Con. Res. 93. A concurrent resolution recognizing and honoring the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony; considered and agreed to.

ADDITIONAL COSPONSORS

S. 724

At the request of Mr. BOND, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 724, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

S. 1209

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1214

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1214, a bill to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

S. 1329

At the request of Mr. JEFFORDS, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1415

At the request of Mr. HATCH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1415, a bill to amend the Internal Revenue Code of 1986 to enhance book donations and literacy.

S. 1430

At the request of Mr. JOHNSON, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1430, a bill to authorize the issuance of Unity Bonds in response to the acts of terrorism perpetrated against the United States on September 11, 2001, and for other purposes.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1745

At the request of Mrs. LINCOLN, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Iowa (Mr. GRASSLEY) , the Senator from Texas (Mr. GRAMM), the Senator from Indiana (Mr . BAYH), the Senator from Washington (Ms. CANTWELL), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1762

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1762, a bill to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

S. 1767

At the request of Mr. KENNEDY, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1767, a bill to amend title 38, United States Code, to provide that certain service in the American Field Service ambulance corps shall be considered active duty for the purposes of all laws administered by the Secretary of Veteran's Affairs, and for other purposes.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1793

At the request of Ms. COLLINS, the names of the Senator from Maine (Ms. SNOWE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1793, a bill to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S.Con.Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. Wisconsin and all those who served aboard her.

AMENDMENT NO. 2152

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 2152 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1816. A bill to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, the University of Alaska, the University, is Alaska's oldest post-secondary school. The University was chartered prior to statehood and has played a vital role in educating Alaskans as well as students from around the world. But the University of Alaska is also an important asset for our Nation. Today it provides a leadership role in Arctic Science and Arctic Engineering Research. Bringing Arctic energy to the Nation has required new breakthroughs in technology and engineering and our need to better understand global climate change has placed a high value of studying the Arctic where climate changes are most easily detected.

Additionally, the University has served as an important cornerstone in Alaska's history. For example, the University housed the Alaska Constitutional Convention where the fathers of statehood carved out the rights and privilege guaranteed to Alaska's citizens. Further, the University of Alaska is proud of the fact that it began life as the Alaska Agricultural and Mining College. However, what makes the University of Alaska truly unique is the fact that it is the only land grant college in the Nation that is virtually landless.

As my colleagues know, one of the oldest and most respected ways of financing America's educational system has been the land grant system. Established in 1785, this practice gives land to schools and universities for their use in supporting their educational endeavors. In 1862, Congress passed the Morrill Act which created the land grant colleges and universities as a way to underwrite the cost of higher education to more and more Americans. These colleges and universities received land from the Federal Government for facility location and, more importantly, as

a way to provide sustaining revenues to these educational institutions.

The University of Alaska received the smallest amount of land of any State, with the exception of Delaware, that has a land grant college. Even the land grant college in Rhode Island received more land from the Federal Government than has the University of Alaska. In a state the size of Alaska, we should logically have one of the best and most fully funded land grant colleges in the country. Unfortunately, without the land promised under the land grant allocation system and earlier legislation, the University is unable to share as one of the premier land grant colleges in the country.

Previous efforts in Congress were made to fix this problem. These efforts date back to 1915, less than 50 years after the passage of the Morrill Act, when Alaska's Delegate James Wickersham shepherded a measure through Congress that set aside potentially more than a quarter of a million acres, in the Tanana Valley outside of Fairbanks, for the support of an agricultural college and school of mines. Following the practice established in the lower 48 for other land grant colleges, Wickersham's bill set aside every Section 33 of the unsurveyed Tanana Valley for the Alaska Agricultural College and School of Mines. Alaska's educational future looked very bright.

Many Alaskans saw the opportunity to set up an endowment system similar to that established by the University of Washington in the downtown center of Seattle, where valuable University lands are leased and provide funding for the University of Washington which uses those revenues in turn to provide for its programs and facilities.

Before that land could be transferred to the Alaska Agricultural College and School of Mines, renamed the University of Alaska in 1935, the land had to be surveyed in order to establish the exact acreage included in the reserved land. The sections reserved for education could not be transferred to the College until they had been delineated. According to records of the time, it was unlikely, given the incredibly slow speed of surveying, that the land could be completely surveyed before the 21st century. Surveying was and is an extraordinarily slow process in Alaska's remote and unpopulated terrain. In all, only 19 sections of land, approximately 11,211 acres, were ever transferred to the University. Of this amount, 2,250 were used for the original campus and the remainder was left to support educational opportunities.

Recognizing the difficulties of surveying in Alaska, subsequent legislation was passed in 1929 that simply granted land for the benefit of the University. This grant totaled approximately 100,000 acres and to this day comprises the bulk of the University's roughly 112,000 acres of land, less than one-third of what it was originally promised. In 1958, the Alaska Statehood Act was passed which extinguished the original land grants for all lands that remained unsurveyed. Thus, the University was left with little land with which to support itself and thus is unable to completely fulfill its mission as a land grant college.

The legislation I am introducing today would redeem the promises made to the University in 1915 and put it on an even footing with the other land grant colleges in the United States. The bill provides the University with the land needed to support itself financially and offers it the chance to grow and continue to act as a responsible steward of the land and educator of our young people. The legislation also provides a concrete timetable under which the University must select its lands and the Secretary of the Interior must act upon those selections.

This legislation also contains significant restrictions on the land the University can select. The University cannot select land located within a Conservation System Unit. The University cannot select old growth timber lands in the Tongass National Forest. Finally, the University cannot select land validly conveyed to the State or an ANCSA corporation, or land used in connection with federal or military institutions.

Additionally, under my bill the University must relinquish extremely valuable inholdings in Alaska once it receives its State/Federal selection awarded under Section 2 of this bill. Therefore, the result of this legislation will mean the relinquishment of prime University inholdings in such magnificent areas as the Alaska Peninsula & Maritime National Wildlife Refuge, The Kenai Fjords National Park, Wrangell St. Elias National Park and Preserve, and Glacier Bay National Park. So, not only does this bill uphold a decades old promise to the University of Alaska, it provides the Secretary of the Interior the opportunity to acquire thousands of acres of inholdings that will further protect Alaska's parks and refuges.

Specifically, this Section 2 of the bill would grant to the University up to 250,000 acres of federal land. Additionally, Section 5 of the bill establishes a matching program so that the University would be eligible to receive up to an additional 250,000 acres on a matching basis, acre-for-acre, with the State. This, obviously, would be done through the state legislative process involving the Governor, the Legislature, and the University's Board of Regents. The State matching provision is an important component of this legislation. Most agree with the premise that the University was shorted land. However, some believe it is solely the responsibility of the State to grant the University land. The legislation I am introducing today offers a compromise giving both the State and the Federal Government the opportunity to contribute while at the same time providing the Federal Government with thousands of aces of valuable inholdings in parks and refuges.

Finally, this bill contains a provision that incorporates a concept put forth by the Governor of Alaska. This provision directs the Secretary of the Interior to attempt to conclude an agreement with the University and the Governor of Alaska providing for sharing NPRA leasing revenues in lieu of land selections to prevent the University from obtaining more than ten percent of such annual revenues or more than nine million dollars each fiscal year. If an agreement is reached and provides for disposition of some portion of NPRA mineral leasing revenues to the University, the Secretary shall submit the proposed agreement to Congress for ratification. If the Secretary fails to reach an agreement within two years of enactment, or if Congress fails to ratify such agreement within three years from enactment, the University may select up to 92,000 of its 250,000 initial land grant from lands within NPRA north of latitude 69.

Therefore, this bill has been substantially changed from versions introduced in previous Congresses in two dramatic ways. First, in response to concerns from the Administration and environmental organizations the old growth areas of the Tongass National Forest are off limits for selection by the University. The only areas of the Tongass that could be selected by the University are those areas previously harvested. It is important that the University be allowed to select lands in this area as having the ability to study and manage as such areas are important tools for the University's School of Forestry.

The second substantial change to the bill, which was previously noted, is the revenue sharing component. This aspect provides an alternative means of providing for the needs of the University. With the passage of this bill, the University of Alaska will finally be able to act fully as a land grant college. It will be able to select lands that can provide the University with a stable revenue source as well as provide responsible stewardship for the land.

This is an exciting time for the University of Alaska. The promise that was made more than 80 years ago could be fulfilled by passage of this legislation, and Alaskans could look forward to a very bright future for the University of Alaska and those seeking an education or to conduct research.

By Mr. DURBIN (for himself and Ms. MILULSKI):

S. 1818. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred; to the Committee on Government Affairs.

Mr. DURBIN. Mr. President, today I would like to discuss the financial burden faced by many of the men and women who serve in the military Reserves or National Guard and who are forced to take unpaid leave from their jobs when called to active duty. While these individuals receive pay for the time they are on active duty, it is often significantly less than what they receive in their normal jobs. It is unfair to ask the men and women who have volunteered to serve their country, often in dangerous situation, to also face a financial strain on their families.

A number of employers have wisely acted to remedy this hardship by establishing a financial compensation plan for their employees in the Reserves or National Guard. In response to the recent terrorist attacks of September 11, the Netherlands-based ABN AMRO Bank N.V., one of the world's largest banks, has set up a special pay differential program to provide their employees in the Reserves and National Guard compensation equaling the income they would normally have to forfeit when called to active duty. LaSalle Bank, a subsidiary of ABN AMRO in Chicago, has already seen this program help 12 reservists in its ranks. The spokesperson for LaSalle described the program as something the company wanted to do ''to be supportive of the country's efforts''.

Let us take similar action in Washington and set an example for employers throughout the country. Today, I am introducing with my colleague from Maryland Senator BARBARA MIKULSKI, the Reservist Pay Security Act of 2001, legislation that will help alleviate the financial problems faced by many Federal employees who serve in the Reserves and must take time off from their jobs when called to active duty. This bill would allow these employees to maintain their normal salary when called to active service by requiring Federal agencies to make up the difference between their military pay and what they would have earned on their Federal job.

As the symbol of American values and ideals, the Federal Government should give these special employees of our government more than just words of support. We should not encourage Americans to protect their country and then punish those who enlist in the armed forces by taking away a large segment of the salary. We must provide our reservist employees with financial support so that they can leave their civilian lives to serve in the military without worrying about the financial well-being of their families.

By Mr. BIDEN (for himself, Mr. SESSIONS, Mr. CLELAND, Mr. COCHRAN, and Mr. DAYTON):

S. 1819. A bill to provide that members of the Armed Forces performing services in the Republic of Korea shall be entitled to tax benefits in same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, today I am introducing legislation, along with Senators SESSIONS, CLELAND, COCHRAN, and DAYTON that simply ensures that personnel serving in Korea get the same tax benefits as personnel serving in other forward deployed areas of the world such as Kuwait and the Balkans. I am hoping that this legislation can be added to the economic stimulus package, but if not, I want to make other Senators aware of the need to take this action for the brave men and women serving in Korea.

We cannot fix all of the quality of life problems in Korea overnight, but we can at least provide basic equity in the tax treatment of military personnel who serve there so that they get the same benefits those in Kuwait and the Balkans get.

Let me share with my colleagues some of the facts that led us to decide that this tax equity is needed and is needed now.

While we have representatives of every service in Korea, the bulk of our force is from the Army. Seventeen percent of the entire Army is stationed in, on orders to, or returning from the Republic of Korea at any given time. That's about 37,000 soldiers.

Unlike most Army postings, which tend to be for six months, ninety-six percent of those stationed in Korea are there for at least one year of unaccompanied duty. In some Army specialities, personnel are asked to serve for far more than one unaccompanied, year-long tour in Korea, which encourages experienced personnel to leave the Army.

Duty tours in Korea involve longer separations from family, under worse quality of life conditions than almost any other overseas Army post, in a military zone that is clearly hostile, for less pay. This is a serious moral issue. Let me give you an example, a typical E–5 will make $5,136 less, $2,292 in Federal taxes that must be paid and not getting the $2,844 separation ration if sent to Korea rather than the Balkans. Our men and women in the military do not serve to become rich, but people notice and morale suffers when one assignment means working in poor conditions for a year and taking a $5,000 pay-cut.

When I say the conditions are poor, I want people to know that I am not exaggerating. The quality of life in Korea is recognized as substantially lower than other overseas posts and far lower than within the United States. Consider that orders for Korea have the highest command declination rate and the highest ''no show'' rate in the Army.

Even worse, look at the housing situation. Only ten percent of the command sponsored service members serving in Korea can be housed, and that housing is generally substandard. Compare this to seventy-two percent of forces deployed to Japan and seventy-four percent of forces in Europe having housing available.

Let me explain what I mean by substandard housing in Korea. The same Quonset huts built in the 1950s as temporary structures are still being used in 2001 to house troops today. Those huts are being shared by 4 or more personnel, often at a level of Sergeant or higher, which is well below standard quarters for such rank.

I visited those Quonset huts when I traveled to Korea in August. I saw the sand bags they have to put out when it rains to prevent major flooding. I witnessed the cramped living quarters; even worse than my freshman college dorm room. I have heard that when winter comes, and Korean winters are famous for their severity, these buildings are much like living in an igloo.

Our troops make the best of this deplorable situation, but they deserve some relief. These are the men and women on whom we rely to deter North Korean aggression on a peninsula that is still technically in a state of war.

Because the tour of duty is unaccompanied for ninety-six percent of the service members there, most of the approximately 21,000 married military personnel in Korea are forced to maintain 2 households. The substandard accommodations available force significant out-of-pocket expenses for basic items like food for both households, phone access, transportation, and other items basic to other posts. The Command estimates that $3,000 to $5,000 per year are spent by deployed personnel on these ''hidden costs.'' Any family that has had to budget knows that this is a significant economic burden at a time when these families are already enduring a year of separation.

It is no wonder that the Army has trouble filling billets in Korea. If you combine the tax disparity and the ''hidden costs'', a mid-level E–5 will make $8,000 to $10,000 less if deployed to Korea versus the Balkans or Kuwait. This is unacceptable, and it is something that we can fix now. The command estimates that granting pay equity would cost approximately $85 million a year. That is surely the least we owe the fine men and women serving in Korea today.

By Mr. CLELAND (for himself, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 1820. A bill to enhance authorities relating to emergency preparedness grants; to the Committee on Commerce, Science, and Transportation.

Mr. CLELAND. Mr. President, the horrific events of September 11 underscore in red the heroism of the men and women who put their lives on the line every day, the courageous fire fighters and police officers of this Nation, the domestic defenders of America. Each and every day, fire fighters and police officers wake up knowing that they may have to run into burning buildings or respond to chemical or biological attacks. As thousands and thousands of

people were running for their lives out of the World Trade Center and the Pentagon, police officers and fire fighters were running in the opposite direction, into the danger and toward the people who could not save themselves. Tragically, many of those first responders did not come out. Sixty police officers and 344 fire fighters are missing or have been declared dead in the World Trade Center attacks. The majority of the fire fighters who responded to the first five alarms of the terrorist attacks, including the city's entire search and rescue fleet of five squad companies, were in the Twin Towers when they collapsed. They are, by any definition, heroes.

We ask for a tremendous amount of responsibility from a small group of people. Fire fighters and police officers are the first responders to almost every tragedy imaginable. From car accidents to plane crashes, from kitchen fires to towering infernos, from domestic disputes to hazardous material spills, we depend upon their service and training each and every day. This Nation's fire fighters and police officers stand ready to respond to the needs of America. The terrible tragedy of September 11 is a daily reminder of how critical it is that America respond to the needs of its first responders.

For the last three months our Nation has focused on how we may best increase the security of our borders. During this time, experts on terrorism have warned us to think outside the box, that if we fail to do so, this Nation will put itself in the vulnerable position of forever responding to the last terrorist attack. The number of anthrax cases is a warning in red that biological and chemical agents are available as weapons of mass destruction. Given this fact, the capacity of our police officers and fire fighter to respond quickly to emergencies involving hazardous materials becomes more important than ever.

The U.S. Department of Transportation administers the Emergency Preparedness Grants Program, which helps State local governments train police and fire fighters to respond to hazmat emergencies. Currently that program is funded at $14 million, and the money comes from registration fees paid by certain hazmat carriers and shippers. Given the growing need for expertise in handling hazardous materials, the $14 million pot of money is clearly inadequate. It is estimated that current funding can provide training to only about 120,000 emergency personnel a year out of a pool of almost 3 million. Grants to local governments are small, ranging from $100,000 to $300,000 on average. In fact, a recent Washington Post article stated that Washington, D.C. is supposed to have a fire department team to respond to a chemical or biological attack, but according to the article, its members rarely train, and are used instead for routine firefighting.

Because money has never been fully allocated for hazmat training grants, there is a current $15 million surplus in the Emergency Preparedness Grants Program. This is $15 million which could be going for critical first responder training. Today I am joined by Senators ROCKEFELLER and WYDEN in introducing the Heroic Emergency Response Operations Act, the HERO bill, which would allow the Department of Transportation to access the $15 million in surplus funds, at no cost to the taxpayer, and disperse the lion's share of this money to State and local governments for hazmat training of the men and women who are at ground zero during emergencies involving hazardous materials.

Under our legislation, $1 million of the $15 million surplus would be authorized to go to the International Association of Fire Fighters, IAFF, which provides specialized hazmat training free of charge to local fire departments. According to the IAFF, funding of $1 million per year would quadruple the number of fire fighters who receive the necessary training to safeguard their health and safety as well as that of the citizens they protect during emergency response at or along our Nation's transportation corridor. In addition, the HERO bill would also require the Department of Transportation to develop national standards for security training related to the deliberate release of hazardous materials used as weapons of mass destruction. These standards would be in addition to the existing standards which address emergency response to accidental hazmat spills which may occur during the transportation of hazardous materials.

In this era of potential chemical and biological attacks, we need to do everything we can to ensure that our local police officers and fire fighters receive the proper training to do the difficult job we ask them to do. We in Congress must do all we can to help the first responders of this Nation because they do everything they can to help us, including giving their lives in the line of duty, as we are painfully reminded by the tragic events of September 11. Our legislation is endorsed by the International Association of Fire Fighters, IAFF, and the International Brotherhood of Police Officers, IBPO. I ask unanimous consent that the text of the HERO bill be printed in the RECORD.

There being no objection, the bill was ordered to the printed in the RECORD, as follows.

S. 1820

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 ''Heroic Emergency Response Operations Act'' or ''HERO Act''.

SEC. 2. ENHANCEMENT OF EMERGENCY PREPAREDNESS GRANTS.

(a) SECURITY TRAINING FOR TRANSPORTATION OF HAZARDOUS MATERIAL.—Subsection (i) of section 5116 of title 49, United States Code, is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) to develop minimum national standards for, and to develop and conduct, security training relating to the transportation of hazardous material in commerce, except that not more than 5 percent of the amount in the account available in any fiscal year may be used for activities under this paragraph.''.

(b) AMOUNT AVAILABLE FOR SUPPLEMENTAL TRAINING GRANTS.—Subsection (j) of that section is amended by adding at the end the following new paragraph:

''(6) The amount made available each fiscal year from the account under subsection (i)(1) for grants under this subsection shall be $1,000,000.''.

(c) AVAILABILITY OF FUNDS GENERALLY.—Notwithstanding any limitation in section 5127 of title 49, United States Code, or in any appropriations Act (including any appropriations Act enacted after the date of the enactment of this Act), all fees collected pursuant to section 5108 of that title, including any fees collected before the date of the enactment of this Act that remain available for obligation, shall be available for obligation, without further appropriation in accordance with section 5116(i) of that title, as amended by subsection (a).

Mr. ROCKEFELLER. Mr. President, it is my distinct pleasure to join my friend from Georgia, Senator CLELAND, in cosponsoring the Heroic Emergency Response Operations, or HERO, Act. The legislation we introduce today honors individuals whom the tragic events of the past few months have truly shown to be heroes, our firefighters and police officers. The HERO Act honors these men and women by providing grants to State and local governments to allow there dedicated public servants to be trained in the proper handling of hazardous materials emergencies.

The HERO Act expands upon the existing Department of Transportation, DOT, Hazardous Materials Emergency Preparedness Grants, which are intended to provide financial and technical assistance to enhance State and local hazardous materials planning and training. The program is authorized to distribute up to $14 million in fees that have been collected from shippers and carriers of hazardous materials to emergency responders for hazmat training. Unfortunately, this money has never been fully allocated to this important endeavor, and there is now a $15 million surplus.

The HERO Act will allow the Secretary of Transportation to access this $15 million in surplus funds and use it for its intended purpose. Additionally, the HERO Act authorizes that $1 million of the surplus funds go to the International Association of Fire Fighters, (IAFF), which offers a specialized program of hazmat training, free of charge, to firefighters across the country. The IAFF is the only organization currently offering this specialized hazmat training, and the additional funding will quadruple the number of firefighters with access to it.

In the course of learning some important, but painful, lessons during the

past few months, our nation has had the opportunity to focus on some positives that we may have taken for granted. As surely as the epic tragedies of September 11 made us aware of the unspeakable evil in the world, it also gave us great pride in the heroes in our midst. When an anthrax-laden letter contaminated the offices of the Majority Leader and others, we came to understand our vulnerability to chemical and biological terrorism. At the same time, we came to more fully appreciate the dedication of the Capitol Police, and the highly trained biohazard units from several agencies of the Federal Government and the armed forces. I am among a group of displaced Senators and staff anxiously waiting for these experts to determine that the Hart Building is safe to re-enter, and I am confident that when we do go back in, the health of Senators and staff members will have been safeguarded by these brave men and women.

I believe it is our duty as members of Congress to see to it that when firefighters and police officers anywhere in the country respond to an accident, crime, or act of terrorism that has resulted in the release of hazardous materials, these heroes have the proper training to protect themselves and the general public. I further believe it is unconscionable that while hazmat teams in every State in the Union go without this much-needed training, this stockpile of money sits unused in the Treasury.

Even before the events of the past few months highlighted the need for enhanced and expanded hazardous materials training, DOT and the IAFF were training as many emergency personnel as possible. However, at its current level of funding, the Emergency Preparedness Grants Program can only provide hazmat training to approximately 120,000 of the nation's 3 million emergency workers each year. Given what has happened, it should be obvious that the need for specialized hazmat training has quickly outpaced the money currently available. This leaves emergency workers in big cities and small towns in the untenable situation of knowing the risks they face, but lacking the proper training to react appropriately.

The legislation I am cosponsoring with Senator CLELAND offers an excellent solution to this problem. At no cost to taxpayers, the HERO Act will allow many thousands of emergency personnel to receive hazardous materials training that they would not otherwise be able to receive. Further, it will require DOT to develop minimal national standards for providing security training to those who transport hazardous materials in commerce, which should reduce the likelihood that emergency personnel will have to put their lives at risk to protect us. I commend Senator CLELAND for his work on this issue, and I wholeheartedly recommend it to my colleagues. I believe the Congress should enact this bill at its earliest opportunity, and that the President should sign it into law.

By Mrs. BOXER (for herself, Mr. CRAIG, Mr. CRAPO, Mr. WYDEN, Mr. SMITH of Oregon, and Mrs. FEINSTEIN):

S. 1825. A bill to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho and tribes in the region for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, I am very pleased to be introducing the Pacific Salmon Recovery Act to grant Federal funding for salmon recovery efforts in California, Idaho, Washington, Oregon, and Alaska. The Salmon Recovery Act authorizes the Secretary of Commerce to provide $350 million during each of the next six fiscal years to these five western States and the Tribes in that region.

In California, as in much of the West, wild salmon stocks have collapsed. Their precipitous decline is the result of habitat destruction, overfishing, pollution, and dams that block the passage of fish to and from their spawning areas. The results have been tragic. Fishermen have lost their jobs. Tribes have lost species that are their religious and cultural icons. And, the environment is suffering.

This bill would help to remedy these problems by investing in the restoration of these economic and culturally important fish. Specifically, it will provide funds to support projects in coastal waters and river habitats that will help restore and recover wild salmon. It directs that priority be given to the restoration of species listed as threatened or endangered under the Endangered Species Act. It establishes criteria to ensure that funds are not wasted on projects that will not benefit fish. It directs the Secretary of Commerce to develop a process for peer reviewing proposed projects to ensure that only scientifically sound projects receive funding. And, it requires States and Tribes to provide an annual spending plan to Congress as well as a one-time comprehensive plan for salmon restoration.

It is important to note that Idaho and the Tribes will finally be eligible for Pacific Salmon Recovery Fund dollars as a result of this bill. There is no justification for them to have been excluded in the past. Additionally, this bill requires that the funds be divided equally among the 5 States. This will ensure that the funding distribution is not distorted by political pressures.

I am particularly pleased that the supporters of this bill come from across the political spectrum. I am joined in the introduction of this bill by Senators CRAIG, R–ID, CRAPO, R–ID, WYDEN, D–OR, SMITH, R–OR, and FEINSTEIN, D–CA. We worked together for many months to craft this legislation. We were ultimately successful because we all share the same goal, saving wild salmon.

Finally, this bill illustrates clearly that our economy and our environment are linked. I have always said we cannot have a healthy economy without a healthy environment. In restoring the salmon, we will also be restoring the economy of many communities in the West that are, or were, dependent on healthy salmon runs.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pacific Salmon Recovery Act''.

SEC. 2. SALMON CONSERVATION AND SALMON HABITAT RESTORATION ASSISTANCE.

(a) REQUIREMENT TO PROVIDE ASSISTANCE.—Subject to the availability of appropriations, the Secretary shall provide financial assistance in accordance with this Act to eligible States and eligible tribal governments for conservation of salmon and salmon habitat restoration activities.

(b) ALLOCATION.—Subject to section 3(f), of the amounts available to provide assistance under this section each fiscal year, the Secretary—

(1) shall allocate 85 percent among eligible States, in equal amounts; and

(2) shall allocate 15 percent among eligible tribal governments, in amounts determined by the Secretary.

(c) TRANSFER.—

(1) IN GENERAL.—The Secretary shall promptly transfer—

(A) to an eligible State that has submitted and had approved an annual spending plan under section 3(a) and a Salmon Conservation and Salmon Habitat Restoration Plan approved under section 3(b), amounts allocated to the eligible State under subsection (b)(1); and

(B) to an eligible tribal government that has submitted and had approved an annual spending plan under section 3(a) and a memorandum of understanding under section 3(c), amounts allocated to the eligible tribal government under subsection (b)(2).

(2) TRANSFERS TO ELIGIBLE STATES.—The Secretary shall make the transfer under paragraph (1)(A)—

(A) to the Washington State Salmon Recovery Board, in the case of amounts allocated to Washington;

(B) to the Oregon State Watershed Enhancement Board, in the case of amounts allocated to Oregon;

(C) to the California Department of Fish and Game for the California Coastal Salmon Recovery Program, in the case of amounts allocated to California;

(D) to the Governor of Alaska, in the case of amounts allocated to Alaska; and

(E) to the Office of Species Conservation, in the case of amounts allocated to Idaho.

(d) REALLOCATION.—

(1) AMOUNTS ALLOCATED TO ELIGIBLE STATES.—Amounts that are allocated to an eligible State for a fiscal year shall be reallocated under subsection (b)(1) among the other eligible States, if—

(A) the eligible State does not have an annual salmon spending plan approved under section 3(a);

(B) the eligible State does not have in effect at the end of the first fiscal year after the amounts have been allocated a Salmon Conservation and Salmon Habitat Restoration Plan approved under section 3(b); or

(C) the amounts allocated remain unobligated at the end of the year following the fiscal year for which the amounts were allocated.

(2) AMOUNTS ALLOCATED TO ELIGIBLE TRIBAL GOVERNMENTS.—Amounts that are allocated to an eligible tribal government for a fiscal year shall be reallocated under subsection (b)(2) to the other eligible tribal governments, if the eligible tribal government—

(A) does not have an annual salmon spending plan approved under section 3(a); or

(B) has not entered into a memorandum of understanding with the Secretary in accordance with section 3(c) at the end of the fiscal year following the fiscal year for which the amounts were allocated.

SEC. 3. RECEIPT AND USE OF ASSISTANCE.

(a) ANNUAL SALMON SPENDING PLAN.—In order to receive assistance under this Act, an eligible State or eligible tribe shall submit and have approved by the Secretary an annual salmon plan which shall include a description of the projects and programs that the State or tribe plans to implement with the funds allocated. The Secretary shall review a State or tribal plan within 90 days and provide a State or tribe an opportunity to resubmit the plan if necessary. Funds shall not be transferred to a State or tribe until an annual salmon plan is approved.

(b) ELIGIBLE STATE SALMON CONSERVATION AND RESTORATION PLAN.—

(1) IN GENERAL.—In order to receive assistance under this Act, an eligible State shall submit to the Secretary by the end of the first fiscal year after the amounts have been allocated, and, not later than 90 days after receipt of such a plan, the Secretary shall approve or deny, a Salmon Conservation and Salmon Habitat Restoration Plan that meets the requirements of paragraph (3).

(2) NEGATIVE DETERMINATION.—If the Secretary determines that a plan described in paragraph (1) submitted by an eligible State does not meet the requirements of paragraph (3), the Secretary shall inform the State of the deficiencies of the plan, and the State may resubmit the plan for review by the Secretary.

(3) CONTENTS.—Each Salmon Conservation and Salmon Habitat Restoration Plan shall, at a minimum—

(A) be consistent with all applicable Federal laws;

(B) promote the recovery of salmon;

(C) except as provided in subparagraph (D), give priority to use of assistance under this Act for projects that—

(i) provide a direct and demonstrable benefit to salmon or their habitat;

(ii) provide the greatest benefit to salmon conservation and salmon habitat restoration relative to the cost of the projects; and

(iii) conserve and restore habitat for—

(I) salmon that are listed as an endangered species or threatened species, proposed for such listing, or a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(II) salmon that are given special protection under the laws or regulations of the eligible State;

(D) in the case of a plan submitted by an eligible State in which, on the date of enactment of this Act, there is no area at which a salmon species referred to in subparagraph (C)(iii)(I) spawns—

(i) give priority to use of assistance for projects referred to in clauses (i) and (ii) of subparagraph (C) that contribute to programs that prevent the decline of unlisted species and that conserve species of salmon that intermingle with, or are otherwise related to, species referred to in subparagraph (C)(iii)(I), which may include (among other matters)—

(I) salmon habitat restoration;

(II) salmon supplementation and enhancement only for the purposes of restoring naturally reproducing salmon stocks and conserving salmon genetic diversity;

(III) salmon-related research, data collection, and monitoring; and

(IV) national and international cooperative habitat programs; and

(ii) provide for revision of the plan within 1 year after any date on which any salmon species that spawns in the eligible State—

(I) is listed as an endangered species or threatened species;

(II) is proposed for such listing; or

(III) becomes a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) establish specific goals and time lines for activities funded with assistance under this Act;

(F) include measurable criteria by which such activities may be evaluated;

(G) require that activities carried out with such assistance shall—

(i) contribute to the conservation and recovery of salmon;

(ii) be scientifically based in accordance with the requirements prescribed by the Secretary under section 4;

(iii) be cost-effective; and

(iv) not be conducted on private land, except with the consent of the owner of the land; and

(H) consider whether activities funded under this Act will have long-term benefits based, in part, on consideration of upstream or downstream activities or activities occurring elsewhere in the watershed.

(4) SUBMISSION OF REGIONAL PLANS.—If the State is unable to complete a comprehensive statewide Salmon Conservation and Restoration Plan within the timeframe established in section 3(b) the State may submit 1 or more Plans covering distinct regions within the State. Funding shall only be available for States or regions within the State for which there is an approved Plan.

(c) MEMORANDUM OF UNDERSTANDING BETWEEN TRIBAL GOVERNMENT AND THE SECRETARY.—

(1) IN GENERAL.—To receive assistance under this Act, an eligible tribal government shall—

(A) have an approved annual spending plan; and

(B) enter into a memorandum of understanding with the Secretary regarding use of the assistance by the end of the second fiscal year after the amounts have been allocated.

(2) CONTENTS.—Each memorandum of understanding shall, at a minimum—

(A) be consistent with all applicable Federal laws;

(B) be consistent with the goal of recovering salmon;

(C) give priority to use of assistance under this Act for activities that—

(i) provide a direct and demonstrable benefit to salmon or their habitat;

(ii) provide the greatest benefit to salmon conservation and salmon habitat restoration relative to the cost of the projects; and

(iii) conserve and restore habitat for—

(I) salmon that are listed as an endangered species or threatened species, proposed for such listing, or a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(II) salmon that are given special protection under the resolutions, ordinances, or regulations of the eligible tribal government;

(D) in the case of a memorandum of understanding entered into by an eligible tribal government for an area in which, as of the date of enactment of this Act, there is no area at which a salmon species referred to in subparagraph (C)(iii)(I) spawns—

(i) give priority to use of assistance for projects referred to in clauses (i) and (ii) of subparagraph (C) that contribute to programs described in subsection (a)(3)(D)(i); and

(ii) include a requirement that the memorandum shall be revised within 1 year after any date on which any salmon species that spawns in the area—

(I) is listed as an endangered species or threatened species;

(II) is proposed for such listing; or

(III) becomes a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) establish specific goals and time lines for activities funded with assistance under this Act;

(F) include measurable criteria by which such activities may be evaluated;

(G) establish specific requirements for reporting to the Secretary by the eligible tribal government; and

(H) require that activities carried out with such assistance shall—

(i) contribute to the conservation or recovery of salmon;

(ii) be scientifically based, in accordance with the requirements prescribed by the Secretary under section 4;

(iii) be cost-effective; and

(iv) not be conducted on private land, except with the consent of the owner of the land.

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Assistance under section 2 may be used by an eligible State in accordance with a plan approved under section 3(b), or by an eligible tribal government in accordance with a memorandum of understanding entered into by the government under section 3(c), to carry out or make grants or provide loans to carry out, among other activities—

(A) protection and restoration of salmon habitat, including riparian areas;

(B) acquisition from willing sellers of conservation easements for riparian habitat protection;

(C) watershed evaluation, assessment, and planning necessary to develop a site-specific and clearly prioritized plan to implement watershed improvements, including for making multiyear grants;

(D) research and collection of data on salmon, and monitoring of salmon and salmon habitat;

(E) salmon supplementation and enhancement projects only for the purposes of restoring naturally reproducing salmon stocks and conserving salmon genetic diversity;

(F) maintenance and monitoring of projects completed with assistance under this Act;

(G) technical training and education projects, including teaching private landowners about practical means of improving land and water management practices to contribute to the conservation and restoration of salmon habitat; and

(H) other activities related to conservation of salmon and salmon habitat restoration.

(2) PEER REVIEW.—Eligible science-based activities in paragraph (1) shall be validated through a peer review process that satisfies the requirements prescribed by the Secretary under section 4.

(3) COLUMBIA RIVER BASIN.—Funds allocated to eligible States and tribal governments for projects or activities located within the Columbia River Basin shall be used in a manner consistent with the Northwest Power Planning Council's Columbia River Basin Fish and Wildlife Program.

(e) USE OF ASSISTANCE FOR ACTIVITIES OUTSIDE JURISDICTION OF RECIPIENT.—

(1) ASSISTANCE TO STATES.—Assistance under this Act provided to an eligible State only may be used for activities within that State's borders.

(2) ASSISTANCE TO TRIBAL GOVERNMENTS.—Assistance under this Act provided to an eligible tribal government may be used for activities conducted within the borders of its resident State (or States).

(f) COST-SHARING BY ELIGIBLE STATES.—

(1) IN GENERAL.—An eligible State shall provide 25 percent non-Federal match, in the aggregate, of any financial assistance provided to the eligible State for a fiscal year under this Act. The non-Federal match may be in the form of monetary contributions or in-kind contributions of services for projects carried out with assistance under this Act. For purposes of this paragraph, monetary contributions by the State shall not be considered to include funds received from other Federal sources.

(2) LIMITATION ON REQUIREMENT FOR MATCHING FUNDS.—The Secretary may not require an eligible State to provide matching funds for each project carried out with assistance under this Act.

(3) TREATMENT OF MONETARY CONTRIBUTIONS.—For purposes of subsection (a)(3)(H), the amount of monetary contributions by an eligible State under this subsection shall be treated as expenditures from non-Federal sources for salmon conservation and salmon habitat restoration programs.

(4) BONNEVILLE POWER ADMINISTRATION FISH AND WILDLIFE FUNDING.—Funds collected by the Bonneville Power Administration from electricity ratepayers and allocated to eligible States and tribal governments for fish and wildlife activities shall not be considered to be funds from a Federal source under this Act.

(g) SUPPLEMENTATION OF STATE AND TRIBAL FUNDING.—An eligible State or tribal government shall maintain its aggregate expenditures of funds from non-Federal sources for salmon and salmon habitat restoration programs at or above the average annual level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act or $10,000,000 for each fiscal year, whichever is less.

(h) COORDINATION OF ACTIVITIES.—Each eligible State and each eligible tribal government receiving assistance under this Act is encouraged to carefully coordinate the salmon conservation activities of that State or tribal government to—

(1) eliminate duplicative and overlapping activities; and

(2) provide consideration of upstream or downstream activities or activities occurring elsewhere in the watershed that may impact the efficacy of restoration efforts.

(i) LIMITATIONS ON USE OF FUNDS.—

(1) ADMINISTRATIVE EXPENSES.—

(A) FEDERAL ADMINISTRATIVE EXPENSES.—Of the amounts available to carry out this Act for a fiscal year, not more than 1 percent may be used by the Secretary for administrative expenses incurred in carrying out this Act.

(B) STATE AND TRIBAL ADMINISTRATIVE EXPENSES.—Of the amount allocated under this Act to an eligible State or eligible tribal government each fiscal year, not more than 3 percent may be used by the eligible State or eligible tribal government, respectively, for administrative expenses incurred in carrying out this Act.

(2) ACTIVITIES REQUIRED FOR ENVIRONMENTAL PERMIT.—No funds available to carry out this Act may be used by a private entity for activities that would otherwise be required as a condition or requirement of a Federal, State, or local environmental permit.

SEC. 4. PEER REVIEW REQUIREMENTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe the requirements for expedited peer review of science-based activities contained in the annual spending plan for each eligible State or tribal government. In order to achieve salmon recovery throughout the coastal salmon's range, each plan shall be considered separately on its own merits.

(b) CONTENT.—The requirements for expedited peer review shall include the following:

(1) PANELS.—Establishment of sufficient peer review panels, as determined by the Secretary, to achieve timely peer review of activities contained in the annual spending plan. The of number of members, qualifications for membership, and procedure for selection of members for each panel shall be substantially in the same manner as the peer review panel provided for under section 4(h)(10)(D) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839b(h)(10)(D)).

(2) NECESSARY INFORMATION.—A description of the information that must be provided to the peer review panel in order to evaluate the activities. Each State's Salmon Conservation and Salmon Habitat Restoration Plan and each tribal government's memorandum of understanding shall establish the mechanism for providing needed information to the peer review panel.

(3) REVIEW OF PROPOSED ACTIVITIES.—Review, by the panels, of activities proposed for funding with assistance under this Act, within the time prescribed by the Secretary.

(4) DETERMINATION AND RECOMMENDATIONS.—Submittal of the peer review panel's determinations and recommendations regarding the activities within each State's or tribe's annual spending plan to the Secretary, in order to be considered by the Secretary in approving or disapproving the annual spending plan, in accordance with the provisions of section 3(a). States or tribes shall be provided an opportunity to resubmit any plan, if necessary, or to propose alternative projects within their respective jurisdictions.

(c) INTERIM FUNDING.—An eligible State or tribal government may receive funding under this Act prior to the finalization by the Secretary of the peer review requirements under this section.

(d) PEER REVIEW FUNDING.—The Secretary shall pay the expenses incurred by peer review panels in an amount not to exceed $500,000 a year from the administrative costs described in section 3(i)(1)(A).

SEC. 5. PUBLIC PARTICIPATION.

(a) ELIGIBLE STATES.—Each eligible State seeking assistance under this Act shall establish a citizen advisory committee or provide a similar forum for local governments and the public to participate in obtaining and using the assistance, as well as in the development of the State Salmon Conservation and Restoration Plan. Each eligible State receiving assistance under this Act shall hold public meetings to receive recommendations on the use of the assistance.

(b) ELIGIBLE TRIBAL GOVERNMENTS.—Each eligible tribal government receiving assistance under this Act shall hold public meetings to receive recommendations on the use of the assistance.

SEC. 6. CONSULTATION NOT REQUIRED.

Consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) shall not be required based solely on the provision of financial assistance under this Act. Projects or activities that affect listed species shall remain subject to applicable provisions of the Endangered Species Act of 1973.

SEC. 7. REPORTS.

Each eligible State and tribal government shall, not later than December 31 of the second year in which amounts are available to carry out this Act, and every 2 years thereafter, submit to the Secretary a biennial report on the use of financial assistance received by the eligible State or tribal government under this Act. The report shall contain an evaluation of the success of that State or tribal government in meeting the criteria listed in section 3 (b) and (c), whichever is applicable.

SEC. 8. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) ELIGIBLE STATE.—The term ''eligible State'' means each of the States of Alaska, Washington, Oregon, California, and Idaho.

(3) ELIGIBLE TRIBAL GOVERNMENT.—The term ''eligible tribal government'' means—

(A) a federally recognized tribal government of an Indian tribe in Alaska, Washington, Oregon, California, or Idaho that the Secretary, in consultation with the Secretary of the Interior, determines—

(i) is involved in salmon management and recovery activities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(ii) has the management and organizational capability to maximize the benefits of assistance provided under this Act; or

(B) an Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or a federally recognized tribe in Alaska, that the Secretary, in consultation with the Secretary of the Interior, determines—

(i) is involved in salmon conservation and management; and

(ii) has the management and organizational capability to maximize the benefits of assistance provided under this Act.

(4) SALMON.—The term ''salmon'' means any naturally produced salmonid or naturally produced trout of the following species:

(A) Coho salmon (oncorhynchus kisutch).

(B) Chinook salmon (oncorhynchus tshawytscha).

(C) Chum salmon (oncorhynchus keta).

(D) Pink salmon (oncorhynchus gorbuscha).

(E) Sockeye salmon (oncorhynchus nerka).

(F) Steelhead trout (oncorhynchus mykiss).

(G) Sea-run cutthroat trout (oncorhynchus clarki clarki).

(H) For purposes of applying this Act to Oregon, the term ''salmon'' also includes—

(i) lahontan cutthroat trout (oncorhnychus clarki henshawi); and

(ii) bull trout (salvelinus confluentus).

(I) For purposes of applying this Act to Washington and Idaho, the term ''salmon'' also includes bull trout (salvelinus confluentus).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $350,000,000 for each of the fiscal years 2002 through 2007 to carry out the provisions of this Act. Any funds appropriated pursuant to this Act shall remain available until expended.

By Mr. HARKIN (for himself, Mr. KENNEDY, and Mr. BAUCUS):

S. 1827. A bill to provide permanent authorization for International Labor Affairs Bureau to continue and enhance their work to alleviate child labor and improve respect for internationally recognized worker rights and core labor standards, and for other purposes; to the Committee on Foreign Relations.

Mr. HARKIN. Mr. President, laws are only as effective as their implementation and enforcement. That is why today I am introducing the Fair International Standards in Trade and Investment Act of 2001 along with my distinguished colleagues, Senator KENNEDY, chairman of the Senate Health, Education, Labor, and Pensions Committee, and Senator BAUCUS, chairman of the Senate Finance Committee.

This legislation will provide much-needed policy direction to the U.S. Labor Department DOL, and enhance the standing and capacity of the International Labor Affairs Bureau, ILAB, within that Department in the formulation and conduct of our nation's international economic policies. With these tools, ILAB can better inform and equip U.S. policy-makers in all three branches of our Federal Government to assist and induce our foreign trading partners to enforce their own national laws against abusive child labor and to comply with thirteen U.S. laws that have been enacted since 1983 which link U.S. trade, investment, and aid policies to the elimination of abusive child labor and growing international respect for the other internationally-recognized worker rights and core labor standards.

Currently, ILAB does not have any underlying, permanent statutory authority for any of its international activities. It simply operates as an adjunct to the personal office of the Secretary of Labor. Practically speaking, this gives ILAB very little clout in inter-agency policy-making and no real voice to insist on better enforcement of the child labor provisions and other worker rights provisions in U.S. law, international law, or any of the bilateral trade and investment agreements that America has with more than 150 foreign countries.

The time has come for better equipping our government and the rest of the world with urgently-needed tools to constructively link compliance with child labor laws and other basic worker rights to the conduct of continued trade and investment liberalization. We need new thinking and new resolve to crackdown on abusive child labor throughout the global economy and to beef up protection of internationally-recognized worker rights and core labor standards. If enacted, this legislation will lay a solid statutory foundation underneath ILAB. It will empower ILAB to help ensure that as our Nation enters into additional trade and investmennt agreements, that those new agreements as well as all of our pre-existing agreements serve to raise the living standards and protect the rights of working people as well as corporate managers and investors.

I have spent more than a decade in this Senate leading the charge against the commercial exploitation of children in the workplace at home and abroad. Just last year, the Congress enacted provisions I authored in the Trade and Development Act of 2000 which prohibit trade preferences and duty-free access to the U.S. marketplace for any trading nation that is not meeting its international legal obligations to eliminate the worst forms of child labor. Now we have to make certain that these new provisions and our other trade-linked worker rights laws are practically enforced and that means improving ILAB's capacity to meet this increasingly-immportant responsibility.

In the final analysis, increased trade and investment are not ends in themselves. They are means for achieving more broad-based, sustainable development and greater economic and social justice in the global economy. Our real choice is not between free trade or protectionism. Our policy challenge is to identify new and constructive ways in which the power of government can be used to manage globalization in ways that curb abusive child labor and protect worker rights as much as property rights. A well-grounded and enhanced ILAB within the one Cabinet department in our government that was created to advance the needs and protect the fundamental rights of working people everywhere can help us meet this challenge for the 21st century and beyond.

By Mr. LEAHY (for himself and Mr. HATCH):

S. 1828. A bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes; to the Committee on Governmental Affairs.

Mr. LEAHY. Mr. President, I rise to introduce, with my good friend Senator HATCH, the Federal Prosecutors' Retirement Benefit Equity Act of 2001. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than other nearly all other people involved in the Federal criminal justice system. The bill would increase the retirement benefits given to Assistant United States Attorneys by including them as ''law enforcement officers'' ''LEOs'', under the Federal Employees' Retirement System and the Civil Service Retirement System. The bill would also allow the Attorney General to designate other attorneys employed by the Department of Justice who act primarily as criminal prosecutors as LEO's for purposes of receiving these retirement benefits.

The primary reason for granting enhanced retirement benefits to LEOs is the often dangerous work of law enforcement. Currently, Assistant United States Attorneys, ''AUSAs'', and other Federal prosecutors are not eligible for these enhanced benefits, which are enjoyed by the vast majority of other employees in the criminal justice system. This exclusion is unjustified. The relevant provisions of the United States Code dealing with retirement benefits define an LEO as an employee whose duties are, ''primarily the investigation, apprehension, or detention'' of individuals suspected or convicted of violating Federal law. See 5 U.S.C. §§ 8331(20) and 8401(17). AUSAs and other Federal prosecutors participate in planning investigations, interviewing witnesses both inside and outside of the office setting, debriefing defendants, obtaining warrants, negotiating plea agreements and representing the government at trials and sentencings, all of which fall within the definition of the duties performed by law enforcement officers. Indeed, once a defendant is brought into the criminal justice system, the person with whom they have the most fact-to-face contact, and often in an extremely confrontational environment, is the Federal prosecutor.

Although prosecutors do not personally execute arrests, searches and other physically dangerous activities, LEO status is accorded to many criminal justice employees who do not perform such tasks, such as pretrial services officers and probation officers and accountants, cooks and secretaries of the Bureau of Prisons. Moreover, because they are often the most conspicuous representatives of the government in the criminal justice system, Federal prosecutors are natural targets for threats of reprisals by vengeful criminals. Indeed, there are numerous incidents in which assaults and serious death threats have been made against Federal prosecutors, sometimes resulting in significant disruption of their personal and family lives.

Only recently a veteran Federal prosecutor in the Western District of Washington was murdered in his home, and, although the crime remains unsolved, based upon the facts of the case the authorities have referred to the crime as a hit. In addition, I have received many other accounts from Federal prosecutors regarding specific threats to which they and their families have been subjected because of the performance of their duties. Federal prosecutors have written to me that they have been forced to relocate themselves and their families due to death threats; that they have been assaulted; that they and their families have been followed by members of criminal organizations; that have been forced to install security systems at their homes and to change their routes to and from the office to protect their safety and the safety of their families.

As our war against terrorism continues, Federal prosecutors will be on the front lines once again as the symbols of our criminal justice system, and

unfortunately therefore the targets of those who seek its downfall. Among other tasks, the Attorney General has designated AUSA's to play a major role working with police and Federal agents in forming each judicial district's Anti-Terrorism Task Force. One Federal prosecutors wrote to me stating that shortly after his name was in the local news as heading his district's Anti-Terrorism Task Force and he had spoken to his family about taking suitable precautions, that his young son came into his bedroom one night holding a hockey stick for protection asking about their safety. Thus, Federal prosecutors and their families will deal more than ever with a level of stress and danger that justifies their being treated as LEOs.

Enhanced retirement benefits are also justified by the Federal Government's need for experienced prosecutors to bring ever more sophisticated cases under increasingly complex Federal criminal laws. In recent years, we have seen the growth of complex Federal prosecutors to combat the threats posed by organized crime, drug cartels, terrorist groups and other sophisticated criminals. The prosecution of such difficult cases is best handled by experienced prosecutors. It is therefore in the public interest to provide reasonable financial incentives for talented, experienced prosecutors to remain in government service.

This bill would make Assistant United States Attorneys and other Federal prosecutors designated by the Attorney General eligible for immediate, unreduced retirement benefits at age 50 with 20 years of service. For example, prosecutors who are covered by the Civil Service Retirement System would receive 50 percent of the average of their three highest years' salary. At the same time, it would exempt prosecutors from the mandatory retirement provisions that require other law enforcement officers to retire at age 57. Because the loss of physical strength and agility does not adversely affect a person's ability to function as a prosecutor, there is no reason to mandate early retirement.

Two important features of this bill will contain its costs. First, the bill provides that incumbent Federal prosecutors are themselves responsible for making up the difference in individual contributions owed to the Civil Service Retirement and Disability Fund for their prior service. An incumbent has the choice of making up this difference either by making a payment up front or by accepting a reduction in retirement benefits. Second, government contributions for the prior service of incumbents are made ratably over a ten-year period under this bill. Thus, payments for prior government contributions are spread out to lessen the financial impact. These two provisions will insure that the cost of the bill is kept well within reasons.

This bill enjoys broad, grass root support. In the last month alone, I have received literally hundreds of letters supporting this bill, sent from over 40 States, District of Columbia and Puerto Rico. The bill also enjoys support in the law enforcement community. The National Association of Assistant United States Attorneys, the Federal Criminal Investigators Association, and the Southern States Police Benevolent Association have all written me to voice support for the inclusion of AUSAs in the definition of an LEO.

In addition, I know that other Senators, including Senator MIKULSKI, are considering additional measures to expand these same retirement benefits to other Federal employees who perform law enforcement functions, including IRS employees whose primary duty is to collect delinquent taxes. I support and commend their leadership in bringing these matters to the forefront.

For all of these reasons, I am pleased to introduce this legislation with Senator HATCH, and I urge its swift enactment into law.

I ask unanimous consent that the text of the bill be printed in the RECORD along with a sectional analysis.

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

S. 1828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Prosecutors Retirement Benefit Equity Act of 2001''.

SEC. 2. INCLUSION OF FEDERAL PROSECUTORS IN THE DEFINITION OF A LAW ENFORCEMENT OFFICER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by striking ''position.'' and inserting ''position and a Federal prosecutor.''.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (27), by striking ''and'' at the end;

(B) in paragraph (28), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(29) 'Federal prosecutor' means—

''(A) an assistant United States attorney under section 542 of title 28; or

''(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (17) of section 8401 of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) in subparagraph (D), by adding ''and'' after the semicolon; and

(C) by adding at the end the following:

''(E) a Federal prosecutor;''.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (33), by striking ''and'' at the end;

(B) in paragraph (34), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(35) 'Federal prosecutor' means—

''(A) an assistant United States attorney under section 542 of title 28; or

''(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States.''.

(c) TREATMENT UNDER CERTAIN PROVISIONS OF LAW (UNRELATED TO RETIREMENT) TO REMAIN UNCHANGED.—

(1) ORIGINAL APPOINTMENTS.—Subsections (d) and (e) of section 3307 of title 5, United States Code, are amended by adding at the end of each the following: ''The preceding sentence shall not apply in the case of an original appointment of a Federal prosecutor as defined under section 8331(29) or 8401(35).''.

(2) MANDATORY SEPARATION.—Sections 8335(b) and 8425(b) of title 5, United States Code, are amended by adding at the end of each the following: ''The preceding provisions of this subsection shall not apply in the case of a Federal prosecutor as defined under section 8331(29) or 8401(35).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 120 days after the date of enactment of this Act.

SEC. 3. PROVISIONS RELATING TO INCUMBENTS.

(a) DEFINITIONS.—In this section, the term—

(1) ''Federal prosecutor'' means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; or

(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States; and

(2) ''incumbent'' means an individual who is serving as a Federal prosecutor on the effective date of this section.

(b) DESIGNATED ATTORNEYS.—If the Attorney General of the United States makes any designation of an attorney to meet the definition under subsection (a)(1)(B) for purposes of being an incumbent under this section,—

(1) such designation shall be made before the effective date of this section; and

(2) the Attorney General shall submit to the Office of Personnel Management before that effective date—

(A) the name of the individual designated; and

(B) the period of service performed by that individual as a Federal prosecutor before that effective date.

(c) NOTICE REQUIREMENT.—Not later than 9 months after the date of enactment of this Act, the Department of Justice shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this Act; and

(2) the effects of making or not making a timely election under this Act.

(d) ELECTION AVAILABLE TO INCUMBENTS.—

(1) IN GENERAL.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this Act; or

(B) as if this Act had never been enacted.

(2) FAILURE TO ELECT.—Failure to make a timely election under this subsection shall be treated in the same way as an election under paragraph (1)(A), made on the last day allowable under paragraph (3).

(3) TIME LIMITATION.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—

(A) 120 days after the date on which the notice under subsection (c) is provided; or

(B) the date on which the incumbent involved separates from service.

(e) LIMITED RETROACTIVE EFFECT.—

(1) EFFECT ON RETIREMENT.—In the case of an incumbent who elects (or is deemed to have elected) the option under subsection (d)(1)(A), all service performed by that individual as a Federal prosecutor shall—

(A) to the extent performed on or after the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, as amended by this Act; and

(B) to the extent performed before the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of such title, as if the amendments made by this Act had then been in effect.

(2) NO OTHER RETROACTIVE EFFECT.—Nothing in this Act (including the amendments made by this Act) shall affect any of the terms or conditions of an individual's employment (apart from those governed by subchapter III of chapter 83 or chapter 84 of title 5, United States Code) with respect to any period of service preceding the date on which such individual's election under subsection (d) is made (or is deemed to have been made).

(f) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—An individual who makes an election under subsection (d)(1)(A) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by section 2 had then been in effect.

(2) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required under paragraph (1) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term ''prior service'' means, with respect to any individual who makes an election under subsection (d)(1)(A), service performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(g) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—If an incumbent makes an election under subsection (d)(1)(A), the Department of Justice shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) AMOUNT REQUIRED.—The amount the Department of Justice is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (over and above those actually paid) that would have been required if the amendments made by section 2 had then been in effect.

(3) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this subsection on behalf of an incumbent shall be made by the Department of Justice ratably (on at least an annual basis) over the 10-year period beginning on the date referred to in subsection (f)(3).

(h) REGULATIONS.—Except as provided under section 4, the Office of Personnel Management shall prescribe regulations necessary to carry out this Act, including provisions under which any interest due on the amount described under subsection (f) shall be determined.

(i) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act.

SEC. 4. DEPARTMENT OF JUSTICE ADMINISTRATIVE ACTIONS.

(a) DEFINITION.—In this section the term ''Federal prosecutor'' has the meaning given under section 3(a)(1).

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Attorney General of the United States shall—

(A) consult with the Office of Personnel Management on this Act (including the amendments made by this Act); and

(B) promulgate regulations for making designations of Federal prosecutors who are not assistant United States attorneys.

(2) CONTENTS.—Any regulations promulgated under paragraph (1) shall ensure that attorneys designated as Federal prosecutors who are not assistant United States attorneys have routine employee responsibilities that are substantially similar to those of assistant United States attorneys assigned to the litigation of criminal cases, such as the representation of the United States before grand juries and in trials, appeals, and related court proceedings.

(c) DESIGNATIONS.—The designation of any Federal prosecutor who is not an assistant United States attorney for purposes of this Act (including the amendments made by this Act) shall be at the discretion of the Attorney General of the United States.

FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2001—SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title. Contains the short title, the ''Federal Prosecutors Retirement Benefit Equity Act of 2001.''

Sec. 2. Inclusion of Federal prosecutors in the definition of a law enforcement officer. Amends 5 U.S.C. §§8331 and 8401 to extend the enhanced law enforcement officer (''LEO'') retirement benefits to Federal prosecutors, defined to include assistant United States attorneys (''AUSAs'') and such other attorneys in the Department of Justice as are designated by the Attorney General of the United States. This section also exempts Federal prosecutors from mandatory retirement provisions for LEO's under the civil service laws.

Sec. 3. Provisions relating to incumbents. Governs the treatment of incumbent federal prosecutors who would be eligible for LEO retirement benefits under this Act. This section requires the Office of Personnel Management to provide notice to incumbents of their rights under this subtitle; allows incumbents to opt out of the LEO retirement program; governs the crediting of prior service by incumbents; and provides for make-up contributions for prior service of incumbents to the Civil Service Retirement and Disability Fund. The section gives incumbents the option of either contributing their own share of any make-up contributions or receiving a proportionally lesser retirement benefit. The section allows the government to contribute its share of any make-up contribution ratably over a ten year period.

Sec. 4. Department of Justice administrative actions. Allows the Attorney General to designate additional Department of Justice attorneys with substantially similar responsibilities, in addition to assistant United States attorneys, as Federal prosecutors for purposes of this Act and thus be eligible for the LEO retirement benefits.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 191—EXPRESSING THE SENSE OF THE SENATE COMMENDING THE INCLUSION OF WOMEN IN THE AFGHAN INTERIM ADMINISTRATION AND COMMENDING THOSE WHO MET AT THE HISTORIC AFGHAN WOMEN'S SUMMIT FOR DEMOCRACY IN BRUSSELS

Mrs. BOXER (for herself, Mr. BROWNBACK, Mr. WELLSTONE, and Ms. MIKULSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 191

Whereas the U.N. sponsored talks in Bonn included the participation of three women delegates and three women advisers;

Whereas women will serve in the Afghan Interim Administration, including in the position of Vice-Chair;

Whereas on December 4–5, 2001, the Afghan Women's Summit for Democracy met at the European Commission in Brussels, Belgium;

Whereas fifty Afghan women leaders, broadly representative of women in Afghanistan, took part in the Summit, ensuring that the voices of Afghan women are heard;

Whereas the Afghan Women's Summit supports the implementation of United Nations Security Council Resolution 1325 on Women and Peace and Security;

Whereas United Nations Security Council Resolution 1325 reaffirms the importance of the equal participation and full involvement of women in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution;

Whereas women under the rule of the Taliban in Afghanistan were denied their basic human rights;

Whereas the Senate has previously adopted a resolution insisting that Afghan women must be included in planning the future reconstruction of Afghanistan: Now, therefore, be it

Resolved, That it is the sense of the Senate that,

(1) it is critically important for the future of Afghanistan that women participated at the United Nations sponsored talks in Bonn and will be included in the Afghan interim administration; and

(2) the Afghan Women's Summit for Democracy recommendations for health, education, political participation, and refugee programs for women should be strongly considered when shaping the future of Afghanistan.

SENATE CONCURRENT RESOLUTION 93—RECOGNIZING AND HONORING THE NATIONAL GUARD ON THE OCCASION OF THE 365TH ANNIVERSARY OF ITS HISTORIC BEGINNING WITH THE FOUNDING OF THE MILITIA OF THE MASSACHUSETTS BAY COLONY.

Mr. LEVIN (for himself, Mr. WARNER, Mr. KENNEDY, Mr. THURMOND, Mr. BYRD, Mr. MCCAIN, Mr. LIEBERMAN, Mr. SMITH of New Hampshire, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. SANTORUM, Mr. REED, Mr. ROBERTS, Mr. AKAKA, Mr. ALLARD, Mr. NELSON of Florida, Mr. HUTCHINSON, Mr. NELSON

of Nebraska, Mr. SESSIONS, Mrs. CARNAHAN, Ms. COLLINS, Mr. DAYTON, Mr. BUNNING, Mr. BINGAMAN, Mr. DASCHLE, Mr. LOTT, Mr. LEAHY, Mr. BOND, and Mr. ROCKEFELLER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 93

Whereas the National Guard is the oldest component of the Armed Forces of the United States, founded on December 13, 1636, as the militia of the Massachusetts Bay Colony;

Whereas the citizen soldiers and airmen of the National Guard have fought in every major American conflict, from the colonial wars of the 17th century to the ongoing operations against the al Qaeda terrorist network and the Taliban regime in Afghanistan that harbored those terrorists;

Whereas the National Guard traditionally has served with distinction as America's first line of defense against the consequences of natural and man-made disasters within the United States;

Whereas the men and women of the National Guard serve as an indispensable part of critical United States military operations around the world, including patrolling the no-fly zones over Iraq and peacekeeping in the Balkans;

Whereas headquarters elements of National Guard combat divisions lead the United States' participation in the multinational Stabilization Force in Bosnia;

Whereas the men and women of the National Guard were among the first to respond to the terrorist atrocities of September 11, 2001, including Air National Guard fighter crews who scrambled on that day and Army National Guard personnel who deployed to assist with rescue and recovery efforts in New York and Virginia;

Whereas the men and women of the National Guard, in keeping with the National Guard's historic mission of homeland defense, are flying combat air patrols to protect the safety of American airspace and are performing critical security roles in their State capacity at airports and other important sites around the Nation; and

Whereas the citizen soldiers and airmen of the National Guard serve a critical role in protecting the freedom of American citizens and the American ideals of justice, liberty, and freedom, both at home and abroad: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That, on December 13, 2001, the occasion of the 365th anniversary of the founding of the militia of the Massachusetts Bay Colony that was the precursor to the force of citizen soldiers and airmen now proudly known as the National Guard, Congress—

(1) recognizes that anniversary of the National Guard as an important milestone in the military tradition of the United States;

(2) honors the commitment and sacrifices made by the 458,400 citizen soldiers and airmen of the National Guard, their families, their employers, and their communities;

(3) recognizes the critical importance of the National Guard, at home and abroad, to the national security of the United States;

(4) salutes the citizen soldiers and airmen of the National Guard for their service on September 11, 2001, and their continuing role in homeland defense and military operations against the al Qaeda terrorist network and the Taliban regime in Afghanistan that harbored those terrorists;

(5) supports a policy of providing the National Guard with resources necessary to ensure its continued readiness; and

(6) expresses the deep gratitude of the American people to the men and women of the National Guard for their dedication and commitment to the security and freedom of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2516. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2517. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2518. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2519. Mr. MCCAIN (for himself, Mr. GRAMM, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2520. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2521. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2522. Mr. FEINGOLD (for himself, Mr. GRASSLEY, and Mr. HARKIN) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2523. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2524. Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. LUGAR, Mr. JOHNSON, Mr. NELSON, of Nebraska, Mr. TORRICELLI, and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2525. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2526. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2527. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2528. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2529. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. CRAIG, Ms. CANTWELL, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2530. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2531. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2532. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2533. Mr. CRAPO (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2534. Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. WELLSTONE, Mr. HARKIN, Mr. THOMAS, Mr. DORGAN, Mr. FEINGOLD, and Mr. DASCHLE) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2535. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2537. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2538. Mr. THURMOND (for himself and Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2539. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2540. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2541. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2542. Mr. SANTORUM (for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. DEWINE, Mr. KOHL, Mr. HATCH, Mrs. CLINTON, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2543. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2544. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the

bill (S. 1731) supra; which was ordered to lie on the table.

SA 2545. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2546. Mr. WYDEN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2547. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2548. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2549. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2550. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2551. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2552. Mr. CRAPO (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2553. Mr. CRAPO (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2554. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2555. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2556. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2557. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2558. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2559. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2560. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2561. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2562. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2563. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2564. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2565. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2566. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2567. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2568. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2569. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2570. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2571. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2572. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2573. Mr. BINGAMAN (for himself, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2574. Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. LUGAR, Mr. JOHNSON, Mr. NELSON, of Nebraska, Mr. TORRICELLI, and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2575. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2576. Mr. DASCHLE (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2577. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2578. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2579. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2580. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2581. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2582. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2583. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2584. Mr. BREAUX (for himself, Ms. LANDRIEU, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2585. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2586. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2587. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2588. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2589. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2590. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2591. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2592. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2593. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2594. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2595. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2596. Mr. SMITH, of New Hampshire (for himself, Mr. TORRICELLI, Mr. GRAHAM, Mr. ALLEN, Mr. ENSIGN, Mr. HELMS, Mr. NELSON, of Florida, Mr. LIEBERMAN, and Mr. SMITH, of Oregon) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2597. Mr. TORRICELLI (for himself, Mr. NELSON, of Florida, and Mr. LIEBERMAN) proposed an amendment to amendment SA 2596 proposed by Mr. SMITH, of NH, to the amendment SA 2471 submitted by Mr. SMITH, of NH

and intended to be proposed to the bill (S. 1731) supra.

SA 2598. Mr. MCCAIN (for himself, Mr. GRAMM, and Mr. KERRY) proposed an amendment to the bill S. 1731, supra.

SA 2599. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2600. Mr. CARPER (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table.

SA 2601. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2516. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of title I and insert a period and the following:

Subtitle E—Payment Limitation Commission

SEC. 171. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Commission on the Application of Payment Limitations for Agriculture'' (referred to in this subtitle as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of the following 7 members appointed by the Secretary of Agriculture (referred to in this subtitle as the ''Secretary''):

(A) 2 members from land grant colleges or universities with expertise in agricultural economics.

(B) 5 members who shall be producers of agricultural commodities, each of whom shall represent 1 of the following regions, as determined by the Secretary:

(i) The Midwest.

(ii) The Great Plains.

(iii) The South.

(iv) The Northeast.

(v) The West.

(2) FEDERAL GOVERNMENT EMPLOYMENT.—The membership of the Commission may include 1 or more employees of the Department of Agriculture or other Federal agencies.

(4) 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. 172. DUTIES.

(a) COMPREHENSIVE REVIEW.—The Commission shall conduct a comprehensive review of—

(1) the laws (including regulations) that apply or fail to apply payment limitations to agricultural commodity and conservation programs administered by the Secretary;

(2) the impact that failing to apply effective payment limitations have on—

(A) the agricultural producers that participate in the programs;

(B) overproduction of agricultural commodities; and

(C) the prices that agricultural producers receive for agricultural commodities in the marketplace;

(3) the feasibility of improving the application and effectiveness of payment limitation requirements, including the use of commodity certificates and the forfeiture of loan collateral; and

(4) alternatives to payment limitation requirements in effect on the date of enactment of this Act that would apply meaningful limitations to improve the effectiveness and integrity of the requirements.

(b) RECOMMENDATIONS.—In carrying out the review under subsection (a), the Commission shall develop specific recommendations for modifications to applicable legislation and regulations that would improve payment limitation requirements.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the 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. 173. POWERS.

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this subtitle.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) ASSISTANCE FROM SECRETARY.—The Secretary may provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

SEC. 174. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the 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. 175. FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission or any proceeding of the Commission.

SEC. 176. FUNDING.

Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $100,000 to carry out this subtitle.

SEC. 177. TERMINATION OF COMMISSION.

The Commission shall terminate on the day after the date on which the Commission submits the report of the Commission under section 172(c).

SA 2517. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, after line 24, insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that all convicted felons wanted by the Federal Bureau of Investigation who are currently living as fugitives in Cuba have been returned to the United States for incarceration.

SA 2518. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 937, between lines 16 and 17, insert the following:

INSURANCE AND NONINSURED CROP DISASTER ASSISTANCE PROGRAM

that the implementation of current federal disaster assistance programs fails to adequately address situations where disaster conditions are caused by direct federal action.

(b) PROVISIONS.—

(1) 7 U.S.C. 7333, as amended by P.L. 104–127, is amended—

(i) in Section (a)(3) by striking ''or'' and

(ii) in Section (a)(3) by striking ''as determined by the Secretary.'' and inserting in lieu thereof ''as determined by the Secretary, or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation.'' and

(iii) in Section (c)(2) by striking ''or other natural disaster, as determined by the Secretary.'' and inserting in lieu thereof ''other natural disaster (as determined by the Secretary), or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation,''.

(2) 7 U.S.C. 1508 is amended—

(i) in Section (a)(1) by striking ''or other natural disaster (as determined by the Secretary).'' and inserting ''natural disaster (as determined by the Secretary), or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation.'' and

(ii) in Section (b)(1) by striking ''or other natural disaster (as determined by the Secretary),'' and inserting in lieu thereof ''other natural disaster (as determined by the Secretary), or direct federal regulatory implementation or resource management decision, action, or water allocation,''.

(c) ADMINISTRATIVE RULES.—The Secretary is encouraged to review and amend administrative rules and guidelines describing disaster conditions to accommodate situations where planting decisions are based on federal water allocations. The Secretary is further encouraged to review the level of disaster payments to irrigated agriculture producers in such cases where federal water allocations are withheld prior to the planting period.

(d) EFFECTIVENESS.—

(1) Subsections (a)(1) and (a)(2) of this section shall be made effective only upon:

(i) finding by the Secretary that implementation of subsections (a)(1) and (a)(2):

(A) do not affect the financial soundness of approved insurance providers or the integrity of the Federal crop insurance program, and

(B) additional authorities are not needed to achieve actuary soundness of implementing subsections (a)(1) and (a)(2).

SA 2519. Mr. MCCAIN (for himself, Mr. GRAMM, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MARKET NAME FOR CATFISH.

The term ''catfish'' shall be considered to be a common or usual name (or part thereof) for any fish in keeping with Food and Drug Administration procedures that follow scientific standards and market practices for establishing such names for the purposes of section 403 of the Federal Food Drug, and Cosmetic Act, including with respect to the importation of such fish pursuant to section 801 of such Act.

At the appropriate place in subtitle C of title X, insert the following:

SEC. . LABELING OF FISH AS CATFISH.

Section 755 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, is repealed.

SA 2520. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes, which was ordered to lie on the table; as follows:

Beginning on page 762, strike line 16 and all that follows through page 763, line 20, and insert the following:

SEC. 741. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) FUNDING.—

''(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account to carry out this section—

''(A) not later than 30 days after the date of enactment of this subparagraph, $240,000,000; and

''(B) on October 1, 2002, and each October 1 thereafter through October 1, 2005, $360,000,000.

''(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.''; and

(2) in subsection (e), by adding at the end the following:

''(3) MINORITY-SERVING INSTITUTIONS.—The Secretary shall consider reserving, to the maximum extent practicable, 10 percent of the funds made available to carry out this section for a fiscal year for grants to minority-serving institutions.''.

SA 2521. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV—NUTRITION PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Food Stamp Simplification Act of 2001''.

Subtitle A—Food Stamp Program

SEC. 411. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF CASH ASSISTANCE.

Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

(1) in the second sentence, by striking ''receives benefits'' and inserting ''receives cash assistance''; and

(2) in the third sentence, by striking ''receives benefits'' and inserting ''receives cash assistance''.

SEC. 412. DISREGARDING OF INFREQUENT AND UNANTICIPATED INCOME.

Section 5(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(2)) is amended by striking ''$30'' and inserting ''$100''.

SEC. 413. SIMPLIFIED TREATMENT OF INDIVIDUALS COMPLYING WITH CHILD SUPPORT ORDERS.

(a) EXCLUSION.—Section 5(d)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(6)) is amended by adding at the end the following: ''including child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments,''.

(b) SIMPLIFIED PROCEDURE.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e), by striking paragraph (4) and inserting the following:

''(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

''(A) IN GENERAL.—In lieu of providing an exclusion for legally obligated child support payments made by a household member under subsection (d)(6), a State agency may elect to provide a deduction for the amount of the payments.

''(B) ORDER OF DETERMINING DEDUCTIONS.—A deduction under this paragraph shall be determined before the computation of the excess shelter expense deduction under paragraph (6).''; and

(2) by adding at the end the following:

''(n) STATE OPTIONS TO SIMPLIFY DETERMINATION OF CHILD SUPPORT PAYMENTS MADE BY HOUSEHOLD MEMBERS.—

''(1) IN GENERAL.—Regardless of whether a State agency elects to provide a deduction under subsection (e)(4), the Secretary shall establish simplified procedures to allow State agencies to determine the amount of the legally obligated child support payments made, including procedures to allow the State agency to rely on information from the agency responsible for implementing the program under part D of title IV of the Social Security Act (42 U.S.C. 661 et seq.) concerning payments made in prior months in lieu of obtaining current information from the household.

''(2) DURATION OF DETERMINATION OF AMOUNT OF SUPPORT PAYMENTS.—If a State agency makes a determination of the amount of support payments of a household under paragraph (1), the State agency may provide that the amount of the exclusion or deduction for the household shall not change until the eligibility of the household is next redetermined under section 11(e)(4).''.

SEC. 414. COORDINATED AND SIMPLIFIED DEFINITION OF INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking ''and (15)'' and inserting ''(15)''; and

(2) by inserting before the period at the end the following: '', (16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (other than loans, grants, scholarships, fellowships, veterans' educational benefits, and the like excluded under paragraph (3)), to the extent that they

are required to be excluded under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), (17) at the option of the State agency, any State complementary assistance program payments that are excluded for the purpose of determining eligibility for medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), (18) at the option of the State agency, any types of income that the State agency does not consider when determining eligibility for, or the amount of, cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), except that this paragraph does not authorize a State agency to exclude wages or salaries, benefits under title I, II, IV, X, XIV, or XVI of the Social Security Act (42 U.S.C. 1381 et seq.), regular payments from a government source (such as unemployment benefits and general assistance), worker's compensation, child support payments made to a household member by an individual who is legally obligated to make the payments, or such other types of income the consideration of which the Secretary determines by regulation to be essential to equitable determinations of eligibility and benefit levels''.

SEC. 415. EXCLUSION OF INTEREST AND DIVIDEND INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) (as amended by section 414(2)) is amended by inserting before the period at the end the following: '', and (19) any interest or dividend income received by a member of the household''.

SEC. 416. ALIGNMENT OF STANDARD DEDUCTION WITH POVERTY LINE.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

''(1) STANDARD DEDUCTION.—

''(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall allow a standard deduction for each household that is—

''(i) equal to the applicable percentage specified in subparagraph (D) of the income standard of eligibility established under subsection (c)(1); but

''(ii) not less than the minimum deduction specified in subparagraph (E).

''(B) GUAM.—The Secretary shall allow a standard deduction for each household in Guam that is—

''(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

''(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

''(C) HOUSEHOLDS OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

''(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be—

''(i) 8 percent for fiscal year 2002;

''(ii) 8.5 percent for each of fiscal years 2003 through 2005;

''(iii) 9 percent for each of fiscal years 2006 through 2008;

''(iv) 9.5 percent for each of fiscal years 2009 and 2010; and

''(v) 10 percent for each fiscal year thereafter.

''(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $229, $189, $269, and $118 for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, respectively.''.

SEC. 417. SIMPLIFIED DEPENDENT CARE DEDUCTION.

Section 5(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(3)) is amended by adding at the end the following:

''(C) STANDARD DEPENDENT CARE ALLOWANCES.—

''(i) ESTABLISHMENT OF ALLOWANCES.—

''(I) IN GENERAL.—In determining the dependent care deduction under this paragraph, in lieu of requiring the household to establish the actual dependent care costs of the household, a State agency may use standard dependent care allowances established under subclause (II) for each dependent for whom the household incurs costs for care.

''(II) AMENDMENT TO STATE PLAN.—A State agency that elects to use standard dependent care allowances under subclause (I) shall submit for approval by the Secretary an amendment to the State plan of operation under section 11(d) that—

''(aa) describes the allowances that the State agency will use; and

''(bb) includes supporting documentation.

''(ii) HOUSEHOLD ELECTION.—

''(I) IN GENERAL.—Except as provided in clause (iii), a household may elect to have the dependent care deduction of the household based on actual dependent care costs rather that the allowances established under clause (i).

''(II) FREQUENCY.—The Secretary may by regulation limit the frequency with which households may make the election described in subclause (I) or reverse the election.

''(iii) MANDATORY DEPENDENT CARE ALLOWANCES.—The State agency may make the use of standard dependent care allowances established under clause (i) mandatory for all households that incur dependent care costs.''.

SEC. 418. SIMPLIFIED DETERMINATION OF HOUSING COSTS.

(a) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended—

(1) in subparagraph (A)—

(A) by striking ''A household'' and inserting the following:

''(i) IN GENERAL.—A household''; and

(B) by adding at the end the following:

''(ii) INCLUSION OF CERTAIN PAYMENTS.—In determining the shelter expenses of a household under this paragraph, the State agency shall include any required payment to the landlord of the household without regard to whether the required payment is designated to pay specific charges.''; and

(2) by adding at the end the following:

''(D) HOMELESS HOUSEHOLDS.—

''(i) ALTERNATIVE DEDUCTION.—In lieu of the deduction provided under subparagraph (A), a State agency may elect to allow a household in which all members are homeless individuals, but that is not receiving free shelter throughout the month, to receive a deduction of $143 per month.

''(ii) INELIGIBILITY.—The State agency may make a household with extremely low shelter costs ineligible for the alternative deduction under clause (i).''.

(b) CONFORMING AMENDMENTS.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e)—

(A) by striking paragraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(2) in subsection (k)(4)(B), by striking ''subsection (e)(7)'' and inserting ''subsection (e)(6)''.

SEC. 419. SIMPLIFIED DETERMINATION OF UTILITY COSTS.

Section 5(e)(6)(C)(iii) of the Food Stamp Act of 1977 (as amended by section 418(b)(1)(B)) is amended—

(1) in subclause (I)(bb), by inserting ''(without regard to subclause (III))'' after ''Secretary finds''; and

(2) by adding at the end the following:

''(III) INAPPLICABILITY OF CERTAIN RESTRICTIONS.—Clauses (ii)(II) and (ii)(III) shall not apply in the case of a State agency that has made the use of a standard utility allowance mandatory under subclause (I).''.

SEC. 420. SIMPLIFIED DETERMINATION OF EARNED INCOME.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by adding at the end the following:

''(C) SIMPLIFIED DETERMINATION OF EARNED INCOME.—

''(i) IN GENERAL.—A State agency may elect to determine monthly earned income by multiplying weekly income by 4 and biweekly income by 2.

''(ii) ADJUSTMENT OF EARNED INCOME DEDUCTION.—A State agency that makes an election described in clause (i) shall adjust the earned income deduction under subsection (e)(2)(B) to the extent necessary to prevent the election from resulting in increased costs to the food stamp program, as determined consistent with standards promulgated by the Secretary.''.

SEC. 421. SIMPLIFIED DETERMINATION OF DEDUCTIONS.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) (as amended by section 420) is amended by adding at the end the following:

''(D) SIMPLIFIED DETERMINATION OF DEDUCTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), for the purposes of subsection (e), a State agency may elect to disregard until the next redetermination of eligibility under section 11(e)(4) 1 or more types of changes in the circumstances of a household that affect the amount of deductions the household may claim under subsection (e).

''(ii) CHANGES THAT MAY NOT BE DISREGARDED.—Under clause (i), a State agency may not disregard—

''(I) any reported change of residence; or

''(II) under standards prescribed by the Secretary, any change in earned income.''.

SEC. 422. SIMPLIFIED RESOURCE ELIGIBILITY LIMIT.

Section 5(g)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(1)) is amended by striking ''a member who is 60 years of age or older'' and inserting ''an elderly or disabled member''.

SEC. 423. EXCLUSION OF LICENSED VEHICLES FROM FINANCIAL RESOURCES.

(a) IN GENERAL.—Section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii), by adding ''and'' at the end;

(B) by striking clause (iv); and

(C) by redesignating clause (v) as clause (iv);

(2) by striking subparagraph (C) and inserting the following:

''(C) EXCLUDED VEHICLES.—The Secretary shall exclude from financial resources any licensed vehicle used for household transportation.''; and

(3) by striking subparagraph (D).

(b) CONFORMING AMENDMENT.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (h).

SEC. 424. EXCLUSION OF RETIREMENT ACCOUNTS FROM FINANCIAL RESOURCES.

Section 5(g)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)(B)) (as amended by section 423(a)(1)) is amended by striking clause (iv) and inserting the following:

''(iv) any savings account (other than a retirement account (including an individual account)).''.

SEC. 425. COORDINATED AND SIMPLIFIED DEFINITION OF RESOURCES.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

''(6) EXCLUSION OF TYPES OF FINANCIAL RESOURCES NOT CONSIDERED UNDER CERTAIN OTHER FEDERAL PROGRAMS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall promulgate regulations under which a State agency may, at the option of the State agency, exclude from financial resources under this subsection any types of financial resources that the State agency does not consider when determining eligibility for—

''(i) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

''(ii) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1).

''(B) LIMITATIONS.—Subparagraph (A) does not authorize a State agency to exclude—

''(i) cash;

''(ii) amounts in any account in a financial institution that are readily available to the household; or

''(iii) any other similar type of resource the inclusion in financial resources of which the Secretary determines by regulation to be essential to equitable determinations of eligibility under the food stamp program, except to the extent that any of those types of resources are excluded under another paragraph of this subsection.''.

SEC. 426. ALTERNATIVE ISSUANCE SYSTEMS IN DISASTERS.

Section 5(h)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(3)(B)) is amended—

(1) in the first sentence, by inserting ''issuance methods and'' after ''shall adjust''; and

(2) in the second sentence, by inserting '', any conditions that make reliance on electronic benefit transfer systems described in section 7(i) impracticable,'' after ''personnel''.

SEC. 427. SIMPLIFIED REPORTING SYSTEMS.

Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended—

(1) in subparagraph (B), by striking ''on a monthly basis''; and

(2) by adding at the end the following:

''(D) FREQUENCY OF REPORTING.—

''(i) IN GENERAL.—Except as provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

''(I) not less often than once each 6 months; but

''(II) not more often than once each month.

''(ii) REPORTING BY HOUSEHOLDS WITH EXCESS INCOME.—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the standard established under section 5(c)(2).''.

SEC. 428. SIMPLIFIED TIME LIMIT.

(a) IN GENERAL.—Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)—

(A) by striking ''36-month'' and inserting ''12-month'';

(B) by striking ''3'' and inserting ''6''; and

(C) in subparagraph (D), by striking ''(4), (5), or (6)'' and inserting ''(4), or (5)'';

(2) by striking paragraph (5);

(3) in paragraph (6)(A)(ii)—

(A) in subclause (III), by adding ''and'' at the end;

(B) in subclause (IV), by striking ''; and'' and inserting a period; and

(C) by striking subclause (V); and

(4) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(b) IMPLEMENTATION OF AMENDMENTS.—For the purpose of implementing the amendments made by subsection (a), a State agency shall disregard any period during which an individual received food stamp benefits before the effective date of this title.

SEC. 429. PRESERVATION OF ACCESS TO ELECTRONIC BENEFITS.

(a) IN GENERAL.—Section 7(i)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended by adding at the end the following:

''(E) ACCESS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

''(i) IN GENERAL.—No benefits shall be taken off-line or otherwise made inaccessible because of inactivity until at least 180 days have elapsed since a household last accessed the account of the household.

''(ii) NOTICE TO HOUSEHOLD.—In a case in which benefits are taken off-line or otherwise made inaccessible, the household shall be sent a notice that—

''(I) explains how to reactivate the benefits; and

''(II) offers assistance if the household is having difficulty accessing the benefits of the household.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to each State agency beginning on the date on which the State agency, after the date of enactment of this Act, enters into a contract to operate an electronic benefit transfer system.

SEC. 430. COST-NEUTRALITY FOR ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively.

SEC. 431. SIMPLIFIED PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.

(a) IN GENERAL.—Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

''(f) SIMPLIFIED PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.—

''(1) IN GENERAL.—At the option of the State agency, allotments for residents of facilities described in subparagraph (B), (C), (D), or (E) of section 3(i)(5) may be determined and issued under this subsection in lieu of subsection (a).

''(2) AMOUNT OF ALLOTMENT.—The allotment for each eligible resident described in paragraph (1) shall be calculated in accordance with standardized procedures established by the Secretary that take into account the allotments typically received by residents of facilities described in paragraph (1).

''(3) ISSUANCE OF ALLOTMENT.—

''(A) IN GENERAL.—The State agency shall issue an allotment determined under this subsection to the administration of a facility described in paragraph (1) as the authorized representative of the residents of the facility.

''(B) ADJUSTMENT.—The Secretary shall establish procedures to ensure that a facility described in paragraph (1) does not receive a greater proportion of a resident's monthly allotment than the proportion of the month during which the resident lived in the facility.

''(4) DEPARTURES OF COVERED RESIDENTS.—

''(A) NOTIFICATION.—Any facility described in paragraph (1) that receives an allotment for a resident under this subsection shall—

''(i) notify the State agency promptly on the departure of the resident; and

''(ii) notify the resident, before the departure of the resident, that the resident—

''(I) is eligible for continued benefits under the food stamp program; and

''(II) should contact the State agency concerning continuation of the benefits.

''(B) ISSUANCE TO DEPARTED RESIDENTS.—On receiving a notification under subparagraph (A)(i) concerning the departure of a resident, the State agency—

''(i) shall promptly issue the departed resident an allotment for the days of the month after the departure of the resident (calculated in a manner prescribed by the Secretary) unless the departed resident reapplies to participate in the food stamp program; and

''(ii) may issue an allotment for the month following the month of the departure (but not any subsequent month) based on this subsection unless the departed resident reapplies to participate in the food stamp program.

''(C) STATE OPTION.—The State agency may elect not to issue an allotment under subparagraph (B)(i) if the State agency lacks sufficient information on the location of the departed resident to provide the allotment.

''(D) EFFECT OF REAPPLICATION.—If the departed resident reapplies to participate in the food stamp program, the allotment of the departed resident shall be determined without regard to this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(A) by striking ''(i) 'Household' means (1) an'' and inserting the following:

''(i)(1) 'Household' means—

''(A) an'';

(B) in the first sentence, by striking ''others, or (2) a group'' and inserting the following: ''others; or

''(B) a group'';

(C) in the second sentence, by striking ''Spouses'' and inserting the following:

''(2) Spouses'';

(D) in the third sentence, by striking ''Notwithstanding'' and inserting the following:

''(3) Notwithstanding'';

(E) in paragraph (3) (as designated by subparagraph (D)), by striking ''the preceding sentences'' and inserting ''paragraphs (1) and (2)'';

(F) in the fourth sentence, by striking ''In no event'' and inserting the following:

''(4) In no event'';

(G) in the fifth sentence, by striking ''For the purposes of this subsection, residents'' and inserting the following:

''(5) For the purposes of this subsection, the following persons shall not be considered to be residents of institutions and shall be considered to be individual households:

''(A) Residents''; and

(H) in paragraph (5) (as designated by subparagraph (G))—

(i) by striking ''Act, or are individuals'' and inserting the following: ''Act.

''(B) Individuals'';

(ii) by striking ''such section, temporary'' and inserting the following: ''that section.

''(C) Temporary'';

(iii) by striking ''children, residents'' and inserting the following: ''children.

''(D) Residents'';

(iv) by striking ''coupons, and narcotics'' and inserting the following: ''coupons.

''(E) Narcotics''; and

(v) by striking ''shall not'' and all that follows and inserting a period.

(2) Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking ''the third sentence of section 3(i)'' each place it appears and inserting ''section 3(i)(4)''.

(3) Section 8(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2017(e)(1)) is amended by striking ''the last sentence of section 3(i)'' and inserting ''section 3(i)(5)''.

(4) Section 17(b)(1)(B)(iv)(III)(aa) of the Food Stamp Act of 1977 (7 U.S.C.

2026(b)(1)(B)(iv)(III)(aa)) is amended by striking ''the last 2 sentences of section 3(i)'' and inserting ''paragraphs (4) and (5) of section 3(i)''.

SEC. 432. 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.''.

SEC. 433. SIMPLIFIED DETERMINATIONS OF CONTINUING ELIGIBILITY.

(a) IN GENERAL.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) by striking paragraph (4) and inserting the following:

''(4)(A) that the State agency shall periodically require each household to cooperate in a redetermination of the eligibility of the household.

''(B) A redetermination under subparagraph (A) shall—

''(i) be based on information supplied by the household; and

''(ii) conform to standards established by the Secretary.

''(C) The interval between redeterminations of eligibility under subparagraph (A) shall not exceed the eligibility review period;'' and

(2) in paragraph (10)—

(A) by striking ''within the household's certification period''; and

(B) by striking ''or until'' and all that follows through ''occurs earlier''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended—

(A) by striking ''Certification period'' and inserting ''Eligibility review period''; and

(B) by striking ''certification period'' each place it appears and inserting ''eligibility review period''.

(2) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(A) in subsection (d)(2), by striking ''in the certification period which'' and inserting ''that''; and

(B) in subsection (e) (as amended by section 1218(b)(1)(B))—

(i) in paragraph (5)(B)(ii)—

(I) in subclause (II), by striking ''certification period'' and inserting ''eligibility review period''; and

(II) in subclause (III), by striking ''has been anticipated for the certification period'' and inserting ''was anticipated when the household applied or at the most recent redetermination of eligibility for the household''; and

(ii) in paragraph (6)(C)(iii)(II), by striking ''the end of a certification period'' and inserting ''each redetermination of the eligibility of the household''.

(3) Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(A) in subsection (c)(1)(C)(iv), by striking ''certification period'' each place it appears and inserting ''interval between required redeterminations of eligibility''; and

(B) in subsection (d)(1)(D)(v)(II), by striking ''a certification period'' and inserting ''an eligibility review period''.

(4) Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(A) in the second sentence of paragraph (1), by striking ''within a certification period''; and

(B) in paragraph (2)(B), by striking ''expiration of'' and all that follows through ''during a certification period,'' and inserting ''termination of benefits to the household,''.

(5) Section 11(e)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(16)) is amended by striking ''the certification or recertification'' and inserting ''determining the eligibility''.

SEC. 434. SIMPLIFIED APPLICATION PROCEDURES FOR THE ELDERLY AND DISABLED.

(a) IN GENERAL.—Section 11(i) of the Food Stamp Act of 1977 (7 U.S.C. 2020(i)) is amended—

(1) in paragraph (1)—

(A) by striking ''income shall be informed'' and inserting the following: ''income shall be—

''(A) informed'';

(B) by striking ''program and be assisted'' and inserting the following: ''program;

''(B) assisted''; and

(C) by striking ''office and be certified'' and inserting the following: ''office; and

''(C) certified''; and

(2) by adding at the end the following:

''(3) DUAL-PURPOSE APPLICATIONS.—

''(A) IN GENERAL.—Under regulations promulgated by the Secretary after consultation with the Commissioner of Social Security, a State agency may enter into a memorandum of understanding with the Commissioner under which an application for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) from a household composed entirely of applicants for or recipients of those benefits shall also be considered to be an application for benefits under the food stamp program.

''(B) CERTIFICATION; REPORTING REQUIREMENTS.—A household covered by a memorandum of understanding under subparagraph (A)—

''(i) shall be certified based exclusively on information provided to the Commissioner, including such information as the Secretary shall require to be collected under the terms of any memorandum of understanding under this paragraph; and

''(ii) shall not be subject to any reporting requirement under section 6(c).

''(C) EXCEPTIONS TO VALUE OF ALLOTMENT.—The Secretary shall provide by regulation for such exceptions to section 8(a) as are necessary because a household covered by a memorandum of understanding under subparagraph (A) did not complete an application under subsection (e)(2).

''(D) COVERAGE.—In accordance with standards promulgated by the Secretary, a memorandum of understanding under subparagraph (A) need not cover all classes of applicants and recipients referred to in subparagraph (A).

''(E) EXEMPTION FROM CERTAIN APPLICATION PROCEDURES.—In the case of any member of a household covered by a memorandum of understanding under subparagraph (A), the Commissioner shall not be required to comply with—

''(i) subparagraph (B) or (C) of paragraph (1); or

''(ii) subsection (j)(1)(B).

''(F) RIGHT TO APPLY UNDER REGULAR PROGRAM.—The Secretary shall ensure that each household covered by a memorandum of understanding under subparagraph (A) is informed that the household may—

''(i)(I) submit an application under subsection (e)(2); and

''(II) have the eligibility and value of the allotment of the household under the food stamp program determined without regard to this paragraph; or

''(ii) decline to participate in the food stamp program.

''(G) TRANSITION PROVISION.—Notwithstanding the requirement for the promulgation of regulations under subparagraph (A), the Secretary may approve a request from a State agency to enter into a memorandum of understanding in accordance with this paragraph during the period—

''(i) beginning on the date of enactment of this paragraph; and

''(ii) ending on the earlier of—

''(I) the date of promulgation of the regulations; or

''(II) the date that is 3 years after the date of enactment of this paragraph.''.

(b) CONFORMING AMENDMENTS.—Section 11(j)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(j)(1)) is amended—

(1) by striking ''shall be informed'' and inserting the following: ''shall be—

''(A) informed''; and

(2) by striking ''program and informed'' and inserting the following: ''program; and

''(B) informed''.

SEC. 435. TRANSITIONAL FOOD STAMPS FOR FAMILIES MOVING FROM WELFARE.

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

''(s) TRANSITIONAL BENEFITS OPTION.—

''(1) IN GENERAL.—A State agency may provide transitional food stamp benefits to a household that ceases to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

''(2) TRANSITIONAL BENEFITS PERIOD.—Under paragraph (1), a household may continue to receive food stamp benefits for a period of not more than 6 months after the date on which cash assistance is terminated.

''(3) AMOUNT OF BENEFITS.—During the transitional benefits period under paragraph (2), a household shall receive an amount of food stamp benefits equal to the allotment received in the month immediately preceding the date on which cash assistance was terminated, adjusted for—

''(A) the change in household income as a result of the termination of cash assistance; and

''(B) any changes in circumstances that may result in an increase in the food stamp allotment of the household and that the household elects to report.

''(4) DETERMINATION OF FUTURE ELIGIBILITY.—In the final month of the transitional benefits period under paragraph (2), the State agency may—

''(A) require the household to cooperate in a redetermination of eligibility; and

''(B) initiate a new eligibility review period for the household without regard to whether the preceding eligibility review period has expired.

''(5) LIMITATION.—A household shall not be eligible for transitional benefits under this subsection if the household—

''(A) loses eligibility under section 6;

''(B) is sanctioned for a failure to perform an action required by Federal, State, or local law relating to a cash assistance program described in paragraph (1); or

''(C) is a member of any other category of households designated by the State agency as ineligible for transitional benefits.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by adding at the end the following: ''The limits specified in this section may be extended until the end of any transitional benefit period established under section 11(s).''.

(2) Section 6(c) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)) is amended by striking

''No household'' and inserting ''Except in a case in which a household is receiving transitional benefits during the transitional benefits period under section 11(s), no household''.

SEC. 436. QUALITY CONTROL.

(a) IN GENERAL.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) is amended—

(1) in paragraph (1), by striking ''enhances payment accuracy'' and all that follows through ''(A) the Secretary'' and inserting the following: ''enhances payment accuracy and that has the following elements:

''(A) CORRECTIVE ACTION PLANS.—The Secretary shall foster management improvements by the States by requiring State agencies to develop and implement corrective action plans to reduce payment errors.

''(B) INVESTIGATION AND INITIAL SANCTIONS.—

''(i) INVESTIGATION.—Except as provided under subparagraph (C), for any fiscal year in which the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than 1 percentage point, other than for good cause shown, the Secretary shall investigate the administration by the State agency of the food stamp program unless the Secretary determines that sufficient information is already available to review the administration by the State agency.

''(ii) INITIAL SANCTIONS.—If an investigation under clause (i) results in a determination that the State agency has been seriously negligent (as determined under standards promulgated by the Secretary), the State agency shall pay the Secretary an amount that reflects the extent of such negligence (as determined under standards promulgated by the Secretary), not to exceed 5 percent of the amount provided to the State agency under subsection (a) for the fiscal year.

''(C) ADDITIONAL SANCTIONS.—If, for any fiscal year, the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than 1 percentage point, other than for good cause shown, and that the State agency was sanctioned under this paragraph or was the subject of an investigation or review under subparagraph (B)(i) for each of the 2 immediately preceding fiscal years, the State agency shall pay to the Secretary an amount equal to the product obtained by multiplying—

''(i) the value of all allotments issued by the State agency in the fiscal year;

''(ii) the lesser of—

''(I) the ratio that—

''(aa) the amount by which the payment error rate of the State agency for the fiscal year exceeds by more than 1 percentage point the national performance measure for the fiscal year; bears to

''(bb) 10 percent; or

''(II) 1; and

''(iii) the amount by which the payment error rate of the State agency for the fiscal year exceeds by more than 1 percentage point the national performance measure for the fiscal year.'';

(2) in paragraph (2)(A), by inserting before the semicolon the following: '', as adjusted downward as appropriate under paragraph (10)'';

(3) in the first sentence of paragraph (4), by striking '', enhanced administrative funding,'' and all that follows and inserting ''under this subsection, high performance bonus payment under paragraph (11), or claim for payment error under paragraph (1).'';

(4) in the first sentence of paragraph (5), by striking ''to establish'' and all that follows and inserting the following: ''to establish the payment error rate for the State agency for the fiscal year, to comply with paragraph (10), and to determine the amount of any high performance bonus payment of the State agency under paragraph (11) or claim under paragraph (1).'';

(5) in the first sentence of paragraph (6), by striking ''incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C),'' and inserting ''claims under paragraph (1),''; and

(6) by adding at the end the following:

''(10) ADJUSTMENTS OF PAYMENT ERROR RATE.—

''(A) IN GENERAL.—

''(i) FISCAL YEAR 2002.—Subject to clause (ii), for fiscal year 2002, in applying paragraph (1), the Secretary shall adjust the payment error rate determined under paragraph (2)(A) as necessary to eliminate any increases in errors that result from the State agency's serving a higher percentage of households with earned income, households with 1 or more members who are not United States citizens, or both, than the lesser of, as the case may be—

''(I) the percentage of households of the corresponding type that receive food stamps nationally; or

''(II) the percentage of—

''(aa) households with earned income that received food stamps in the State in fiscal year 1992; or

''(bb) households with members who are not United States citizens that received food stamps in the State in fiscal year 1998.

''(ii) EXPANDED APPLICABILITY TO STATE AGENCIES SUBJECT TO SANCTIONS.—In the case of a State agency subject to sanctions for fiscal year 2001 or any fiscal year thereafter under paragraph (1), the adjustments described in clause (i) shall apply to the State agency for the fiscal year.

''(B) CONTINUATION OR MODIFICATION OF ADJUSTMENTS.—For fiscal year 2003 and each fiscal year thereafter, the Secretary may determine whether the continuation or modification of the adjustments described in subparagraph (A)(i) or the substitution of other adjustments is most consistent with achieving the purposes of this Act.''.

(b) CONFORMING AMENDMENT.—Section 22(h) of the Food Stamp Act of 1977 (7 U.S.C. 2031(h)) is amended by striking the last sentence.

(c) APPLICABILITY.—Except as otherwise provided in the amendments made by subsection (a), the amendments made by subsection (a) shall apply to fiscal year 2001 and each fiscal year thereafter.

SEC. 437. IMPROVEMENT OF CALCULATION OF STATE PERFORMANCE MEASURES.

(a) IN GENERAL.—Section 16(c)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)(8)) is amended—

(1) in subparagraph (B), by striking ''180 days after the end of the fiscal year'' and inserting ''the first May 31 after the end of the fiscal year referred to in subparagraph (A)''; and

(2) in subparagraph (C), by striking ''30 days thereafter'' and inserting ''the first June 30 after the end of the fiscal year referred to in subparagraph (A)''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 438. BONUSES FOR STATES THAT DEMONSTRATE HIGH PERFORMANCE.

(a) IN GENERAL.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) (as amended by section 436(a)(6)) is amended—

(1) in the first sentence of paragraph (1), by striking ''enhanced administrative funding to States with the lowest error rates.'' and inserting ''bonus payments to States that demonstrate high levels of performance.''; and

(2) by adding at the end the following:

''(11) HIGH PERFORMANCE BONUS PAYMENTS.—

''(A) IN GENERAL.—For each fiscal year, the Secretary shall—

''(i) measure the performance of each State agency with respect to each of the performance measures specified in subparagraph (B); and

''(ii) subject to subparagraph (D), make high performance bonus payments to the State agencies with the highest achievement with respect to those performance measures.

''(B) PERFORMANCE MEASURES.—The performance measures specified in this subparagraph are—

''(i)(I) the greatest dollar amount of total claims collected in the fiscal year as a proportion of the overpayment dollar amount in the previous fiscal year; and

''(II) the greatest percentage point improvement under clause (i)(I) from the previous fiscal year to the fiscal year;

''(ii) the greatest improvement from the previous fiscal year to the fiscal year in the ratio, expressed as a percentage, that—

''(I) the number of households in the State that—

''(aa) have incomes less than 130 percent of the poverty line (as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

''(bb) are eligible for food stamp benefits; and

''(cc) receive food stamps benefits; bears to

''(II) the number of households in the State that—

''(aa) have incomes less than 130 percent of the poverty line (as so defined); and

''(bb) are eligible for food stamp benefits;

''(iii) the lowest overpayment error rate;

''(iv) the greatest percentage point improvement from the previous fiscal year to the fiscal year in the overpayment error rate;

''(v) the lowest negative error rate;

''(vi) the greatest percentage point improvement from the previous year to the fiscal year in the negative error rate;

''(vii) the lowest underpayment error rate;

''(viii) the greatest percentage point improvement from the previous year to the fiscal year in the underpayment error rate;

''(ix) the greatest percentage of new applications processed within the deadlines established under paragraphs (3) and (9) of section 11(e); and

''(x) the least average period of time needed to process applications under paragraphs (3) and (9) of section 11(e).

''(C) HIGH PERFORMANCE BONUS PAYMENTS.—

''(i) DEFINITION OF CASELOAD.—In this subparagraph, the term 'caseload' has the meaning given the term in section 6(o)(5)(A).

''(ii) AMOUNT OF PAYMENTS.—

''(I) IN GENERAL.—For each fiscal year, the Secretary shall—

''(aa) make 1 high performance bonus payment of $10,000,000 for each of the 10 performance measures under subparagraph (B); and

''(bb) allocate the high performance bonus payment with respect to each performance measure in accordance with subclauses (II) and (III).

''(II) PAYMENT FOR PERFORMANCE MEASURE CONCERNING CLAIMS COLLECTED.—For each fiscal year, the Secretary shall allocate the high performance bonus payment made for the performance measure under subparagraph (B)(i) among the 20 State agencies with the highest performance in the performance measure in the ratio that—

''(aa) the caseload of each such State agency; bears to

''(bb) the caseloads of all such State agencies.

''(III) PAYMENTS FOR OTHER PERFORMANCE MEASURES.—For each fiscal year, the Secretary shall allocate the high performance bonus payment made for the performance measure under each of clauses (ii) through (x) of subparagraph (B) among the 10 State agencies with the highest performance in the performance measure in the ratio that—

''(aa) the caseload of each such State agency; bears to

''(bb) the caseloads of all such State agencies.

''(iii) DETERMINATION OF HIGHEST PERFORMERS.—

''(I) IN GENERAL.—In determining the highest performers under clause (ii), the Secretary shall calculate applicable percentages to 2 decimal places.

''(II) DETERMINATION IN EVENT OF A TIE.—If, under subclause (I), 2 or more State agencies have the same percentage with respect to a performance measure, the Secretary shall calculate the percentage for the performance measure to as many decimal places as are necessary to determine which State agency has the greatest percentage.

''(D) LIMITATIONS FOR STATE AGENCIES SUBJECT TO SANCTIONS.—If, for any fiscal year, a State agency is subject to a sanction under paragraph (1)—

''(i) the State agency shall not be eligible for a high performance bonus payment under clause (iii), (iv), (vii), or (viii) of subparagraph (B) for the fiscal year; and

''(ii) the State agency shall not receive a high performance bonus payment for which the State agency is otherwise eligible under this paragraph for the fiscal year until the obligation of the State agency under the sanction has been satisfied (as determined by the Secretary).

''(E) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to make a high performance bonus payment under this paragraph shall not be subject to judicial review.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to fiscal year 2003 and each fiscal year thereafter.

SEC. 439. SIMPLIFIED FUNDING RULES FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) LEVELS OF FUNDING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking '', to remain available until expended,''; and

(B) by striking clause (vii) and inserting the following:

''(vii) to remain available until expended—

''(I) for fiscal year 2002, $122,000,000;

''(II) for fiscal year 2003, $129,000,000;

''(III) for fiscal year 2004, $135,000,000;

''(IV) for fiscal year 2005, $142,000,000; and

''(V) for fiscal year 2006, $149,000,000.'';

(2) by striking subparagraph (B) and inserting the following:

''(B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

''(i) is determined and adjusted by the Secretary; and

''(ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o).''; and

(3) by striking subparagraphs (E) through (G).

(b) RESCISSION OF CARRYOVER FUNDS.—Notwithstanding any other provision of law, funds provided under section 16(h)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)(A)) for any fiscal year before fiscal year 2002 shall cease to be available on the date of enactment of this Act, unless obligated by a State agency before that date.

(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 ''$25 per month'' and inserting ''an amount not less than $25 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 ''$25'' and inserting ''the limit established by the State agency under section 6(d)(4)(I)(i)(I)''.

SEC. 440. REAUTHORIZATION OF FOOD STAMP PROGRAM.

(a) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(3)) is amended—

(1) in the first sentence of subparagraph (A), by striking ''2002'' and inserting ''2006''; and

(2) in subparagraph (B)(ii), by striking ''2002'' and inserting ''2006''.

(b) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended by striking ''2002'' and inserting ''2006''.

(c) GRANTS TO IMPROVE FOOD STAMP PARTICIPATION.—Section 17(i)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(i)(1)(A)) is amended in the first sentence by striking ''2002'' and inserting ''2006''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking ''2002'' and inserting ''2006''.

SEC. 441. EXPANDED GRANT AUTHORITY.

Section 17(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(a)(1)) is amended—

(1) by striking '', by way of making contracts with or grants to public or private organizations or agencies,'' and inserting ''enter into contracts with or make grants to public or private organizations or agencies under this section to''; and

(2) by adding at the end the following: ''The waiver authority of the Secretary under subsection (b) shall extend to all contracts and grants under this section.''.

SEC. 442. EXEMPTION OF WAIVERS FROM COST-NEUTRALITY REQUIREMENT.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended by adding at the end the following:

''(E) COST NEUTRALITY.—

''(i) REQUIREMENTS FOR WAIVERS.—

''(I) ESTIMATION OF COSTS AND SAVINGS OF WAIVERS.—Before approving a waiver for any demonstration project proposed under this subsection, the Secretary shall estimate the costs or savings likely to result from the waiver.

''(II) APPROVAL OF WAIVERS.—The Secretary shall not approve any waiver that the Secretary estimates will increase costs to the Federal Government unless—

''(aa) exigent circumstances require the approval of the waiver;

''(bb) the increase in costs is insignificant; or

''(cc) the increase in costs is necessary for a designated research demonstration project under clause (ii).

''(III) MULTIYEAR COST NEUTRALITY.—A waiver shall not be considered to increase costs to the Federal Government based on the impact of the waiver in any 1 fiscal year if the waiver is not expected to increase costs to the Federal Government over any 3-fiscal year period that includes the fiscal year.

''(ii) EXEMPTION FROM COST-NEUTRALITY REQUIREMENT FOR CERTAIN PROJECTS.—

''(I) IN GENERAL.—For each fiscal year, the Secretary may designate research demonstration projects that—

''(aa) have a substantial likelihood of producing information on important issues of food stamp program design or operation; and

''(bb) the Secretary estimates are likely to increase costs to the Federal Government by a total of not more than $50,000,000 during the period of fiscal years 2002 through 2006.

''(II) EXEMPTION.—A project described in subclause (I) shall be exempt from clause (i).

''(iii) OFFSETS IN OTHER PROGRAMS.—In making determinations of costs to the Federal Government under this subparagraph, the Secretary shall estimate and consider savings to the Federal Government in other programs in such a manner as the Secretary determines to be appropriate.

''(iv) NO LOOK-BACK.—The Secretary shall not be required to adjust any estimate made under this subparagraph to reflect the actual costs of a demonstration project as implemented by a State agency.''.

SEC. 443. PROGRAM SIMPLIFICATION DEMONSTRATION PROJECTS.

(a) ENHANCED WAIVER AUTHORITY.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (e) and inserting the following:

''(e) PROGRAM SIMPLIFICATION DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—With the approval of the Secretary, not more than 5 State agencies may carry out demonstration projects to test, for a period of not more than 3 years, promising approaches to simplifying the food stamp program.

''(2) TYPES OF DEMONSTRATION PROJECTS.—Each demonstration project under paragraph (1) shall test changes in food stamp program rules in not more than 1 of the following 2 areas:

''(A)(i) Reporting requirements under section 6(c).

''(ii) Verification methods under section 11(e)(3) (including reliance on data from preceding periods that can be obtained or verified electronically).

''(iii) A combination of reporting requirements and verification methods.

''(B) The income standard of eligibility established under section 5(c)(1), deductions under section 5(e), and income budgeting procedures under section 5(f).

''(3) SELECTION OF DEMONSTRATION PROJECTS.—

''(A) IN GENERAL.—The Secretary shall establish a competitive process to select, from all projects proposed by State agencies, the demonstration projects to be carried out under this subsection based on which projects have the greatest likelihood of producing useful information on important issues of food stamp program design or operation, as determined by the Secretary.

''(B) GOALS.—In selecting demonstration projects, the Secretary shall seek, at a minimum, to achieve a balance between—

''(i) simplifying the food stamp program;

''(ii) reducing administrative burdens on State agencies, households, and other individuals and entities;

''(iii) providing nutrition assistance to individuals most in need; and

''(iv) improving access to nutrition assistance.

''(C) PROJECTS NOT ELIGIBLE FOR SELECTION.—The Secretary shall not select any demonstration project under this subsection that the Secretary determines does not have a strong likelihood of producing useful information on important issues of food stamp program design or operation.

''(D) DIVERSITY OF APPROACHES AND AREAS.—In selecting demonstration projects to be carried out under this subsection, the Secretary shall seek to include—

''(i) projects that take diverse approaches;

''(ii) at least 1 project that will operate in an urban area; and

''(iii) at least 1 project that will operate in a rural area.

''(E) MAXIMUM AGGREGATE COST OF PROJECTS.—The estimated aggregate cost of projects selected by the Secretary under this subsection shall not exceed $90,000,000.

''(4) SIZE OF AREA.—Each demonstration project selected under this subsection shall be carried out in an area that contains not more than the greater of—

''(A) one-third of the total households receiving allotments in the State; or

''(B) the minimum number of households needed to measure the effects of the demonstration projects.

''(5) EVALUATIONS.—

''(A) IN GENERAL.—The Secretary shall provide, through contract or other means, for detailed, statistically valid evaluations to be conducted of each demonstration project carried out under this subsection.

''(B) MINIMUM REQUIREMENTS.—Each evaluation under subparagraph (A)—

''(i) shall include the study of control groups or areas; and

''(ii) shall analyze, at a minimum, the effects of the project design on—

''(I) costs of the food stamp program;

''(II) State administrative costs;

''(III) the integrity of the food stamp program, including errors as measured under section 16(c);

''(IV) participation by households in need of nutrition assistance; and

''(V) changes in allotment levels experienced by—

''(aa) households of various income levels;

''(bb) households with elderly, disabled, and employed members;

''(cc) households with high shelter costs relative to the incomes of the households; and

''(dd) households receiving subsidized housing, child care, or health insurance.

''(C) FUNDING.—From funds made available to carry out this Act, the Secretary shall reserve not more than $6,000,000 to conduct evaluations under this paragraph.

''(6) REPORT TO CONGRESS.—Not later than January 1, 2006, the Secretary shall submit to Congress a report on the impact of the demonstration projects carried out under this subsection on the food stamp program, including the effectiveness of the demonstration projects in—

''(A) delivering nutrition assistance to households most at risk; and

''(B) reducing administrative burdens.''.

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B)(iv)(III)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(iv)(III)(ii)) is amended by striking ''paragraph'' and inserting ''section''.

SEC. 444. CONSOLIDATED BLOCK GRANTS.

(a) CONSOLIDATED FUNDING.—Section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''the Commonwealth of Puerto Rico'' and inserting ''governmental entities specified in subparagraph (D)'';

(B) in clause (ii), by striking ''and'' at the end; and

(C) by striking clause (iii) and all that follows and inserting the following:

''(iii) for fiscal year 2002, $1,356,000,000; and

''(iv) for each of fiscal years 2003 through 2006, the amount provided in clause (iii), as adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(o)(4) between June 30, 2001, and June 30 of the immediately preceding fiscal year;

to pay the expenditures for nutrition assistance programs for needy persons as described in subparagraphs (B) and (C).'';

(2) in subparagraph (B), by inserting ''of Puerto Rico'' after ''Commonwealth'' each place it appears; and

(3) by adding at the end the following:

''(C) AMERICAN SAMOA.—For each fiscal year, the Secretary shall reserve 0.4 percent of the funds made available under subparagraph (A) for payment to American Samoa to pay the expenditures for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).

''(D) GOVERNMENTAL ENTITY.—A governmental entity specified in this subparagraph is—

''(i) the Commonwealth of Puerto Rico; and

''(ii) for fiscal year 2003 and each fiscal year thereafter, American Samoa.''.

(b) CONFORMING AMENDMENT.—Section 24 of the Food Stamp Act of 1977 (7 U.S.C. 2033) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002.

SEC. 445. EXPANDED AVAILABILITY OF COMMODITIES.

(a) IN GENERAL.—Section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036) is amended—

(1) in subsection (a)—

(A) by striking ''From amounts'' and inserting the following:

''(1) IN GENERAL.—From amounts'';

(B) by striking ''for each of fiscal years 1997 through 2002, the Secretary shall purchase $100,000,000 of'' and inserting ''the Secretary shall use the amount specified in paragraph (2) to purchase''; and

(C) by adding at the end the following:

''(2) AMOUNTS.—The amounts specified in this paragraph are—

''(A) for each of fiscal years 1997 through 2001, $100,000,000; and

''(B) for each of fiscal years 2002 through 2006, $140,000,000.''; and

(2) by adding at the end the following:

''(c) USE OF FUNDS FOR RELATED COSTS.—

''(1) IN GENERAL.—For each of fiscal years 2002 through 2006, the Secretary shall use $10,000,000 of the funds made available under subsection (a) to pay the direct and indirect costs of States relating to the processing, storing, transporting, and distributing to eligible recipient agencies of—

''(A) commodities purchased by the Secretary under subsection (a); and

''(B) commodities acquired from other sources, including commodities acquired by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100–435)).

''(2) ALLOCATION OF FUNDS.—The amount required to be used in accordance with paragraph (1) shall be allocated in accordance with section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

Subtitle B—Miscellaneous Provisions

SEC. 451. REAUTHORIZATION OF COMMODITY PROGRAMS.

(a) COMMODITY DISTRIBUTION PROGRAM.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking ''2002'' and inserting ''2006''.

(b) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GRANTS PER ASSIGNED CASELOAD SLOT.—

''(1) IN GENERAL.—In carrying out the program under section 4 (referred to in this section as the 'commodity supplemental food program'), for each of fiscal years 2003 through 2006, the Secretary shall provide to each State agency from funds made available to carry out that section (including any such funds remaining available from the preceding fiscal year), a grant per assigned caseload slot for administrative costs incurred by the State agency and local agencies in the State in operating the commodity supplemental food program.

''(2) AMOUNT OF GRANTS.—For each of fiscal years 2003 through 2006, the amount of each grant per caseload slot shall be equal to $50, adjusted by the percentage change between—

''(A) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

''(B) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.''; and

(2) in subsection (d)(2), by striking ''2002'' each place it appears and inserting ''2006''.

(c) DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking ''2002'' and inserting ''2006''.

(d) EMERGENCY FOOD ASSISTANCE.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking ''2002'' and inserting ''2006'';

(2) by striking ''administrative''; and

(3) by inserting ''storage,'' after ''processing,''.

SEC. 452. WORK REQUIREMENT FOR LEGAL IMMIGRANTS.

(a) WORKING IMMIGRANT FAMILIES.—Section 402(a)(2)(B)(ii)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(B)(ii)(I)) is amended by striking ''40'' and inserting ''40 (or, in the case of the specified Federal program described in paragraph (3)(B), 16)''.

(b) CONFORMING AMENDMENTS.—

(1) Section 213A(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1183a(a)(3)(A)) is amended by striking ''40'' and inserting ''40 (or, in the case of the specified Federal program described in section 402(a)(3)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(3)(B)), 16)''.

(2) Section 403(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)) is amended by adding at the end the following:

''(L) Assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).''.

(3) Section 421(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(b)(2)(A)) is amended by striking ''40'' and inserting ''40 (or, in the case of the specified Federal program described in section 402(a)(3)(B), 16)''.

SEC. 453. QUALIFIED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

''(L) FOOD STAMP EXCEPTION FOR CERTAIN QUALIFIED ALIENS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any individual who has continuously resided in the United States as a qualified alien for a period of 5 years or more.''.

SEC. 454. COMMODITIES FOR SCHOOL LUNCH PROGRAMS.

(a) IN GENERAL.—Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking ''2001'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 455. ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.

(a) IN GENERAL.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

''(7) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—For each of fiscal years 2002 and 2003, the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 456. SENIORS FARMERS' MARKET NUTRITION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall carry out and expand a seniors farmers' market nutrition program.

(b) PROGRAM PURPOSES.—The purposes of the seniors farmers' market nutrition program are—

(1) 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;

(2) to increase domestic consumption of agricultural commodities by expanding or assisting in the expansion of domestic farmers' markets, roadside stands, and community-supported agriculture programs; and

(3) to develop or aid in the development of new farmers' markets, roadside stands, and community-supported agriculture programs.

(c) REGULATIONS.—The Secretary of Agriculture may promulgate such regulations as the Secretary considers necessary to carry out the seniors farmers' market nutrition program under this section.

(d) FUNDING.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, 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 of Agriculture to carry out this section $15,000,000.

(2) RECEIPT AND ACCEPTANCE.—The Secretary of Agriculture shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

SEC. 457. ELIGIBILITY FOR ASSISTANCE UNDER THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 17(d)(2)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)(i)) is amended—

(1) by striking ''basic allowance for housing'' and inserting the following: ''basic allowance—

''(I) for housing'';

(2) by striking ''and'' at the end and inserting ''or''; and

(3) by adding at the end the following:

''(II) provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law; and''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 458. CONGRESSIONAL HUNGER FELLOWS PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Congressional Hunger Fellows Act of 2001''.

(b) FINDINGS.—Congress finds that—

(1) there are—

(A) a critical need for compassionate individuals who are committed to assisting people who suffer from hunger; and

(B) a need for those individuals to initiate and administer solutions to the hunger problem;

(2) Bill Emerson, the distinguished late Representative from the 8th District of Missouri, demonstrated—

(A) his commitment to solving the problem of hunger in a bipartisan manner;

(B) his commitment to public service; and

(C) his great affection for the institution and the ideals of Congress;

(3) George T. (Mickey) Leland, the distinguished late Representative from the 18th District of Texas, demonstrated—

(A) his compassion for individuals in need;

(B) his high regard for public service; and

(C) his lively exercise of political talents;

(4) the special concern that Mr. Emerson and Mr. Leland demonstrated during their lives for the hungry and poor was an inspiration for others to work toward the goals of equality and justice for all; and

(5) since those 2 outstanding leaders maintained a special bond of friendship regardless of political affiliation and worked together to encourage future leaders to recognize and provide service to others, it is especially appropriate to honor the memory of Mr. Emerson and Mr. Leland by establishing a fellowship program to develop and train the future leaders of the United States to pursue careers in humanitarian service.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

(2) BOARD.—The term ''Board'' means the Board of Trustees of the Program.

(3) FUND.—The term ''Fund'' means the Congressional Hunger Fellows Trust Fund established by subsection (g).

(4) PROGRAM.—The term ''Program'' means the Congressional Hunger Fellows Program established by subsection (d).

(d) ESTABLISHMENT.—There is established as an independent entity of the legislative branch of the United States Government an entity to be known as the ''Congressional Hunger Fellows Program''.

(e) BOARD OF TRUSTEES.—

(1) IN GENERAL.—The Program shall be subject to the supervision and direction of a Board of Trustees.

(2) MEMBERS OF THE BOARD.—

(A) APPOINTMENT.—

(i) IN GENERAL.—The Board shall be composed of 6 voting members appointed under clause (ii) and 1 nonvoting ex-officio member designated by clause (iii).

(ii) VOTING MEMBERS.—The voting members of the Board shall be the following:

(I) 2 members appointed by the Speaker of the House of Representatives.

(II) 1 member appointed by the minority leader of the House of Representatives.

(III) 2 members appointed by the majority leader of the Senate.

(IV) 1 member appointed by the minority leader of the Senate.

(iii) NONVOTING MEMBER.—The Executive Director of the Program shall serve as a nonvoting ex-officio member of the Board.

(B) TERMS.—

(i) IN GENERAL.—Each member of the Board shall serve for a term of 4 years.

(ii) INCOMPLETE TERM.—If a member of the Board does not serve the full term of the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(C) VACANCY.—A vacancy on the Board—

(i) shall not affect the powers of the Board; and

(ii) shall be filled in the same manner as the original appointment was made.

(D) CHAIRPERSON.—As the first order of business of the first meeting of the Board, the members shall elect a Chairperson.

(E) COMPENSATION.—

(i) IN GENERAL.—Subject to clause (ii), a member of the Board shall not receive compensation for service on the Board.

(ii) TRAVEL.—A member of the Board 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 Board.

(3) DUTIES.—

(A) BYLAWS.—

(i) ESTABLISHMENT.—The Board shall establish such bylaws and other regulations as are appropriate to enable the Board to carry out this section, including the duties described in this paragraph.

(ii) CONTENTS.—Bylaws and other regulations established under clause (i) shall include provisions—

(I) for appropriate fiscal control, accountability for funds, and operating principles;

(II) to prevent any conflict of interest, or the appearance of any conflict of interest, in—

(aa) the procurement and employment actions taken by the Board or by any officer or employee of the Board; and

(bb) the selection and placement of individuals in the fellowships developed under the Program;

(III) for the resolution of a tie vote of the members of the Board; and

(IV) for authorization of travel for members of the Board.

(iii) SUBMISSION TO CONGRESS.—Not later than 90 days after the date of the first meeting of the Board, the Chairperson of the Board shall submit to the appropriate congressional committees a copy of the bylaws established by the Board.

(B) BUDGET.—For each fiscal year in which the Program is in operation—

(i) the Board shall determine a budget for the Program for the fiscal year; and

(ii) all spending by the Program shall be in accordance with the budget unless a change is approved by the Board.

(C) PROCESS FOR SELECTION AND PLACEMENT OF FELLOWS.—The Board shall review and approve the process established by the Executive Director for the selection and placement of individuals in the fellowships developed under the Program.

(D) ALLOCATION OF FUNDS TO FELLOWSHIPS.—The Board shall determine—

(i) the priority of the programs to be carried out under this section; and

(ii) the amount of funds to be allocated for the fellowships established under subsection (f)(3)(A).

(f) PURPOSES; AUTHORITY OF PROGRAM.—

(1) PURPOSES.—The purposes of the Program are—

(A) to encourage future leaders of the United States to pursue careers in humanitarian service;

(B) to recognize the needs of people who are hungry and poor;

(C) to provide assistance and compassion for people in need;

(D) to increase awareness of the importance of public service; and

(E) to provide training and development opportunities for the leaders through placement in programs operated by appropriate entities.

(2) AUTHORITY.—The Program may develop fellowships to carry out the purposes of the Program, including the fellowships described in paragraph (3).

(3) FELLOWSHIPS.—

(A) IN GENERAL.—The Program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) CURRICULUM.—

(i) IN GENERAL.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—

(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement; and

(II) experience in policy development through placement in a governmental entity or nonprofit organization.

(ii) FOCUS.—

(I) BILL EMERSON HUNGER FELLOWSHIP.—The Bill Emerson Hunger Fellowship shall address hunger and other humanitarian needs in the United States.

(II) MICKEY LELAND HUNGER FELLOWSHIP.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iii) WORK PLAN.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the Program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including the specific duties and responsibilities relating to the objectives.

(C) PERIOD OF FELLOWSHIP.—

(i) EMERSON FELLOWSHIP.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for a period of not more than 1 year.

(ii) LELAND FELLOWSHIP.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for a period of not more than 2 years, of which not less than 1 year shall be dedicated to fulfilling the requirement of subparagraph (B)(i)(I).

(D) SELECTION OF FELLOWS.—

(i) IN GENERAL.—A fellowship shall be awarded through a nationwide competition established by the Program.

(ii) QUALIFICATION.—A successful applicant shall be an individual who has demonstrated—

(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;

(II) leadership potential or leadership experience;

(III) diverse life experience;

(IV) proficient writing and speaking skills;

(V) an ability to live in poor or diverse communities; and

(VI) such other attributes as the Board determines to be appropriate.

(iii) AMOUNT OF AWARD.—

(I) IN GENERAL.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the Program.

(II) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(iv) RECOGNITION OF FELLOWSHIP AWARD.—

(I) EMERSON FELLOW.—An individual awarded a Bill Emerson Hunger Fellowship shall be known as an ''Emerson Fellow''.

(II) LELAND FELLOW.—An individual awarded a Mickey Leland Hunger Fellowship shall be known as a ''Leland Fellow''.

(4) EVALUATIONS.—

(A) IN GENERAL.—The Program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships.

(B) REQUIRED ELEMENTS.—Each evaluation shall include—

(i) an assessment of the successful completion of the work plan of each fellow;

(ii) an assessment of the impact of the fellowship on the fellows;

(iii) an assessment of the accomplishment of the purposes of the Program; and

(iv) an assessment of the impact of each fellow on the community.

(g) TRUST FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Congressional Hunger Fellows Trust Fund'', consisting of—

(A) amounts appropriated to the Fund under subsection (k);

(B) any amounts earned on investment of amounts in the Fund under paragraph (2); and

(C) amounts received under subsection (i)(3)(A).

(2) INVESTMENT OF AMOUNTS.—

(A) IN GENERAL.—

(i) AUTHORITY TO INVEST.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(ii) TYPES OF INVESTMENTS.—Each investment may be made only in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary of the Treasury in consultation with the Board, has a maturity suitable for the Fund.

(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(3) TRANSFERS OF AMOUNTS.—

(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(h) EXPENDITURES; AUDITS.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Program from the amounts described in subsections (g)(2)(D) and (i)(3)(A) such sums as the Board determines to be necessary to enable the Program to carry out this section.

(2) LIMITATION.—The Secretary may not transfer to the Program the amounts appropriated to the Fund under subsection (k).

(3) USE OF FUNDS.—Funds transferred to the Program under paragraph (1) shall be used—

(A) to provide a living allowance for the fellows;

(B) to defray the costs of transportation of the fellows to the fellowship placement sites;

(C) to defray the costs of appropriate insurance of the fellows, the Program, and the Board;

(D) to defray the costs of preservice and midservice education and training of fellows;

(E) to pay staff described in subsection (i);

(F) to make end-of-service awards under subsection (f)(3)(D)(iii)(II); and

(G) for such other purposes as the Board determines to be appropriate to carry out the Program.

(4) AUDIT BY COMPTROLLER GENERAL.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct an annual audit of the accounts of the Program.

(B) BOOKS.—The Program shall make available to the Comptroller General all books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Program and necessary to facilitate the audit.

(C) REPORT TO CONGRESS.—The Comptroller General shall submit to the appropriate congressional committees a copy of the results of each audit under subparagraph (A).

(i) STAFF; POWERS OF PROGRAM.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall appoint an Executive Director of the Program who shall—

(i) administer the Program; and

(ii) carry out such other functions consistent with this section as the Board shall prescribe.

(B) RESTRICTION.—The Executive Director may not serve as Chairperson of the Board.

(C) COMPENSATION.—The Executive Director shall be paid at a rate not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—With the approval of a majority of the Board, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers necessary to carry out this section.

(B) COMPENSATION.—An individual appointed under subparagraph (A) shall be paid at a rate not to exceed the rate payable for level GS–15 of the General Schedule.

(3) POWERS.—

(A) GIFTS.—

(i) IN GENERAL.—The Program may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Program.

(ii) USE OF GIFTS.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall—

(I) be deposited in the Fund; and

(II) be available for disbursement on order of the Board.

(B) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—To carry out this section, the Program may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay payable for level GS–15 of the General Schedule.

(C) CONTRACT AUTHORITY.—To carry out this section, the Program may, with the approval of a majority of the members of the Board, contract with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) OTHER NECESSARY EXPENDITURES.—

(i) IN GENERAL.—Subject to clause (ii), the Program may make such other expenditures as the Program considers necessary to carry out this section.

(ii) PROHIBITION.—The Program may not expend funds to develop new or expanded projects at which fellows may be placed.

(j) REPORT.—Not later than December 31 of each year, the Board shall submit to the appropriate congressional committees a report on the activities of the Program carried out during the preceding fiscal year that includes—

(1) an analysis of the evaluations conducted under subsection (f)(4) during the fiscal year; and

(2) a statement of—

(A) the total amount of funds attributable to gifts received by the Program in the fiscal year under subsection (i)(3)(A); and

(B) the total amount of funds described in subparagraph (A) that were expended to carry out the Program in the fiscal year.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $18,000,000.

(l) EFFECTIVE DATE.—This section takes effect on October 1, 2002.

SEC. 459. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title (other than subtitle C) take effect on July 1, 2002, except that a State agency may, at the option of the State agency, elect not to implement the amendments until October 1, 2002.

Subtitle C—Commodity Progrrams

SEC. 471. INCOME PROTECTION PRICES FOR COUNTER-CYCLICAL PAYMENTS.

Section 114(c) of the Federal Agriculture Improvement and Reform Act of 1996 (as amended by section 111) is amended by striking paragraph (2) and inserting the following:

''(2) INCOME PROTECTION PRICES.—The income protection prices for contract commodities under paragraph (1)(A) are as follows:

''(A) Wheat, $3.39 per bushel.

''(B) Corn, $2.31 per bushel.

''(C) Grain sorghum, $2.31 per bushel.

''(D) Barley, $2.16 per bushel.

''(E) Oats, $1.52 per bushel.

''(F) Upland cotton, $0.669 per pound.

''(G) Rice, $9.16 per hundredweight.

''(H) Soybeans, $5.65 per bushel.

''(I) Oilseeds (other than soybeans), $0.103 per pound.''.

SEC. 472. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

(a) IN GENERAL.—Section 132 of the Federal Agriculture Improvement and Reform Act of 1996 (as amended by section 123(a)) is amended to read as follows:

''SEC. 132. LOAN RATES.

''The loan rate for a marketing assistance loan under section 131 for a loan commodity shall be—

''(1) in the case of wheat, $2.94 per bushel;

''(2) in the case of corn, $2.04 per bushel;

''(3) in the case of grain sorghum, $2.04 per bushel;

''(4) in the case of barley, $1.96 per bushel;

''(5) in the case of oats, $1.47 per bushel;

''(6) in the case of upland cotton, $0.539 per pound;

''(7) in the case of extra long staple cotton, $0.7965 per pound;

''(8) in the case of rice, $6.71 per hundredweight;

''(9) in the case of soybeans, $5.10 per bushel;

''(10) in the case of oilseeds (other than soybeans), $0.093 per pound;

''(11) in the case of graded wool, $1.00 per pound;

''(12) in the case of nongraded wool, $.40 per pound;

''(13) in the case of mohair, $2.00 per pound;

''(14) in the case of honey, $.60 per pound;

''(15) in the case of dry peas, $6.78 per hundredweight;

''(16) in the case of lentils, $12.79 per hundredweight;

''(17) in the case of large chickpeas, $17.44 per hundredweight; and

''(18) in the case of small chickpeas, $8.10 per hundredweight.''.

(b) ADJUSTMENT OF LOANS.—

(1) IN GENERAL.—The amendment made by section 123(b) is repealed.

(2) APPLICABILITY.—Section 162 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7282) shall be applied and administered as if the amendment made by section 123(b) had not been enacted.

SEC. 473. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle take effect on the date of enactment of this Act.

SA 2522. Mr. FEINGOLD (for himself, Mr. GRASSLEY, and Mr. HARKIN) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) 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:

Strike the period at the end of section 1021 and insert a period and the following:

SEC. 10___. ARBITRATION CLAUSES.

Title IV of the Packers and Stockyards Act, 1921, is amended by inserting after section 413 (7 U.S.C. 228b–4) the following:

''SEC. 413A. ARBITRATION CLAUSES.

''Notwithstanding any other provision of law, in the case of a contract for the sale or production of livestock or poultry under this Act that is entered into or renewed after the date of enactment of this section and that includes a provision that requires arbitration of a dispute arising from the contract, a person that seeks to resolve a dispute under the contract may, notwithstanding the terms of the contract, elect—

''(1) to arbitrate the dispute in accordance with the contract; or

''(2) to resolve the dispute in accordance with any other lawful method of dispute resolution, including mediation and civil action.''.

SA 2523. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of chapter 1 of subtitle C of title I and insert a period and the following:

SEC. 1___. STANDARD OF IDENTITY FOR MILK.

Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended by adding at the end the following: ''Not later than 180 days after the date of enactment of this sentence, the Secretary shall include in the standard of identity for fluid milk a required minimum protein content that is commensurate with the average protein content of bovine milk produced in the United States as of that date of enactment. In carrying out the preceding sentence, the Secretary shall use data collected by milk market administrators of the Department of Agriculture and State regulatory agencies, and any appropriate industry data that the Secretary determines to be necessary to establish the required minimum protein content.''.

SA 2524. Mr. DORGAN (for himself, Mr. LUGAR, Mr. JOHNSON, Mr. NELSON of Nebraska, Mr. TORRICELLI, Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 165 and insert the following:

SEC. 165. PAYMENT LIMITATIONS; NUTRITION AND COMMODITY PROGRAMS.

(a) PAYMENT LIMITATIONS.—

(1) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (6) and inserting the following:

''(1) LIMITATIONS ON DIRECT AND COUNTER-CYCLICAL PAYMENTS.—Subject to paragraph (5)(A), the total amount of direct payments and counter-cyclical payments made directly or indirectly to an individual or entity during any fiscal year may not exceed $75,000.

''(2) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

''(A) IN GENERAL.—Subject to paragraph (5)(A), the total amount of the payments and benefits described in subparagraph (B) that an individual or entity may directly or indirectly receive during any crop year may not exceed $150,000.

''(B) PAYMENTS AND BENEFITS.—Subparagraph (A) shall apply to the following payments and benefits:

''(i) MARKETING LOAN GAINS.—

''(I) REPAYMENT GAINS.—Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity or peanuts under section 132 or 158G(d) of that Act, respectively.

''(II) FORFEITURE GAINS.—In the case of settlement of a marketing assistance loan under section 131 or 158G(a) of that Act for a crop of any loan commodity or peanuts, respectively, by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

''(ii) LOAN DEFICIENCY PAYMENTS.—Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

''(iii) COMMODITY CERTIFICATES.—Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under section 131 or 158G(a) of that Act.

''(3) SETTLEMENT OF CERTAIN LOANS.—Notwithstanding subtitle C and section 158G of the Federal Agriculture Improvement and Reform Act of 1996, if the amount of payments and benefits described in paragraph (2)(B) attributed directly or indirectly to an individual or entity for a crop year reaches the limitation described in paragraph (2)(A), the portion of any unsettled marketing assistance loan made under section 131 or 158G(a) of that Act attributed directly or indirectly to the individual or entity shall be settled through the repayment of the total loan principal, plus applicable interest.

''(4) DEFINITIONS.—In this section and sections 1001A through 1001F:

''(A) COUNTER-CYCLICAL PAYMENT.—The term 'counter-cyclical payment'' means a payment made under section 114 or 158D of the Federal Agriculture Improvement and Reform Act of 1996.

''(B) DIRECT PAYMENT.—The term 'direct payment' means a payment made under section 113 or 158C of that Act.

''(C) LOAN COMMODITY.—The term 'loan commodity' has the meaning given the term in section 102 of that Act.

''(D) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(5) APPLICATION OF LIMITATION.—

''(A) MARRIED COUPLES.—The total amount of payments and benefits described paragraphs (1) and (2) that a married couple may receive directly or indirectly may not exceed $275,000 during the fiscal or crop year (as appropriate).

''(B) TENANT RULE.—

''(i) IN GENERAL.—Any individual or entity that conducts a farming operation to produce a crop subject to the limitations established under this section as a tenant shall be ineligible to receive any payment or benefit described in paragraph (1) or (2), or subtitle D of title XII, with respect to the land unless the individual or entity makes a contribution of active personal labor to the operation that is at least equal to the lesser of—

''(I) 1000 hours; or

''(II) 40 percent of the minimum number of labor hours required to produce each commodity by the operation (as described in clause (ii)).

''(ii) MINIMUM NUMBER OF LABOR HOURS.—For the purpose of clause (i)(II), the minimum number of labor hours required to produce each commodity shall be equal to the number of hours that would be necessary to conduct a farming operation for the production of each commodity that is comparable in size to an individual or entity's commensurate share in the farming operation for the production of the commodity, based on the minimum number of hours per acre required to produce the commodity in the State where the farming operation is located, as determined by the Secretary.

''(6) PUBLIC SCHOOLS.—The provisions of this section that limit payments to any individual or entity shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.''.

(2) SUBSTANTIVE CHANGE.—Section 1001A(a) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)) is amended—

(A) in the section heading, by striking **''PREVENTION OF CREATION OF ENTITIES TO QUALITY AS SEPARATE PERSONS;'' AND INSERTING ''SUBSTANTIVE CHANGE;'';**

(B) by striking ''(a) PREVENTION'' and all that follows through the end of paragraph (2) and inserting the following:

''(a) SUBSTANTIVE CHANGE.—

''(1) IN GENERAL.—The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of individuals or entities to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

''(2) FAMILY MEMBERS.—For the purpose of paragraph (1), the addition of a family member to a farming operation under the criteria established under subsection (b)(1)(B) shall be considered a bona fide and substantive change in the farming operation.'';

(C) in the first sentence of paragraph (3)—

(i) by striking ''as a separate person''; and

(ii) by inserting '', as determined by the Secretary'' before the period at the end; and

(D) by striking paragraph (4).

(3) ACTIVELY ENGAGED IN FARMING.—Section 1001A(b) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)) is amended—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—To be eligible to receive, directly or indirectly, payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) with respect to a particular farming operation an individual or entity shall be actively engaged in farming with respect to the operation, as provided under paragraphs (2), (3), and (4).'';

(B) in paragraph (2), by adding at the end the following:

''(E) ACTIVE PERSONAL MANAGEMENT.—For an individual to be considered to be providing active personal management under this paragraph on behalf of the individual or a corporation or entity, the management provided by the individual shall be personally provided on a regular, substantial, and continuous basis through the direction supervision and direction of—

''(i) activities and labor involved in the farming operation; and

''(ii) on-site services that are directly related and necessary to the farming operation.'';

(C) in paragraph (3)—

(i) by striking subparagraph (A) and inserting the following:

''(A) LANDOWNERS.—An individual or entity that is a landowner contributing the owned land to the farming operation and that meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A), if the landowner—

''(i) share rents the land; or

''(ii) makes a significant contribution of active personal management.''; and

(ii) in subparagraph (B), by striking ''persons'' and inserting ''individuals and entities''; and

(D) in paragraph (4)—

(i) in the paragraph heading, by striking ''PERSONS'' and inserting ''INDIVIDUALS AND ENTITIES'';

(ii) in the matter preceding subparagraph (A), by striking ''persons'' and inserting ''individuals and entities''; and

(iii) in subparagraph (B)—

(I) in the subparagraph heading, by striking ''PERSONS'' and inserting ''INDIVIDUALS AND ENTITIES''; and

(II) by striking ''person, or class of persons'' and inserting ''individual or entity, or class of individuals or entities'';

(E) by striking paragraph (5);

(F) in paragraph (6), by striking ''a person'' and inserting ''an individual or entity''; and

(G) by redesignating paragraph (6) as paragraph (5).

(4) ADMINISTRATION.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by adding at the end the following:

''(c) ADMINISTRATION.—

''(1) REVIEWS.—

''(A) IN GENERAL.—During each of fiscal years 2002 through 2006, the Office of Inspector General for the Department of Agriculture shall conduct a review of the administration of the requirements of this section and sections 1001, 1001B, 1001C, and 1001E in at least 6 States.

''(B) MINIMUM NUMBER OF COUNTIES.—Each State review described in subparagraph (A) shall cover at least 5 counties in the State.

''(C) REPORT.—Not later than 90 days after completing a review described in subparagraph (A), the Inspector General for the Department of Agriculture shall issue a final report to the Secretary of the findings of the Inspector General.

''(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements of this section and sections 1001, 1001B, 1001C, and 1001E in a State and the Secretary agrees that the problems exist, the Secretary—

''(A) shall initiate a training program regarding the payment limitation requirements; and

''(B) may require that all payment limitation determinations regarding farming operations in the State be issued from the headquarters of the Farm Service Agency.''.

(5) SCHEME OR DEVICE.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended by striking ''person'' each place it appears and inserting ''individual or entity''.

(6) FOREIGN INDIVIDUALS AND ENTITIES.—Section 1001C(b) of the Food Security Act of 1985 (7 U.S.C. 1308–3(b)) is amended in the first sentence by striking ''considered a person that is''.

(7) EDUCATION PROGRAM.—Section 1001D(c) of the Food Security Act of 1985 (7 U.S.C. 1308–4(c)) is amended by striking ''5 persons'' and inserting ''5 individuals or entities''.

(8) REPORT TO CONGRESS.—No later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall provide a report to and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes—

(A) how State and county office employees are trained regarding the payment limitation requirements of section 1001 through 1001E of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–5);

(B) the general procedures used by State and county office employees to identify potential violations of the payment limitation requirements;

(C) the requirements for State and county office employees to report serious violations of the payment limitation requirements, including violations of section 1001B of that Act to the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements.

(b) NET INCOME LIMITATION.—The Food Security Act of 1985 is amended by inserting after section 1001E (7 U.S.C. 1308–5) the following:

''SEC. 1001F. NET INCOME LIMITATION.

''Notwithstanding any other provision of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.), an owner or producer shall not be eligible for a payment or benefit described in

paragraphs (1) or (2) of section 1001 for a fiscal or crop year (as appropriate) if the average adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the owner or producer for each of the preceding 3 taxable years exceeds $2,500,000.''.

(c) FOOD STAMP PROGRAM.—

(1) INCREASE IN BENEFITS TO HOUSEHOLDS WITH CHILDREN.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

''(1) STANDARD DEDUCTION.—

''(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall allow for each household a standard deduction that is equal to the greater of—

''(i) the applicable percentage specified in subparagraph (D) of the applicable income standard of eligibility established under subsection (c)(1); or

''(ii) the minimum deduction specified in subparagraph (E).

''(B) GUAM.—The Secretary shall allow for each household in Guam a standard deduction that is—

''(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

''(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

''(C) HOUSEHOLDS OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

''(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be—

''(i) 8 percent for each of fiscal years 2002 through 2004;

''(ii) 8.25 percent for each of fiscal years 2005 and 2006;

''(iii) 8.5 percent for each of fiscal years 2007 and 2008;

''(iv) 8.75 percent for fiscal year 2009; and

''(v) 9 percent for each of fiscal years 2010 and 2011.

''(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $229, $189, $269, and $118 for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, respectively.''.

(2) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 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''.

(3) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended by striking ''such total amount shall not exceed an amount representing $25 per participant per month for costs of transportation and other actual costs (other than dependent care costs) and'' and inserting ''the amount of the reimbursement for dependent care expenses shall not exceed''.

(4) EFFECTIVENESS OF CERTAIN PROVISIONS.—Section 413 and subsections (c) and (d) of section 433, and the amendments made by section 413 and subsections (c) and (d) of section 433, shall have no effect.

(d) LOAN DEFICIENCY PAYMENTS.—

(1) ELIGIBILITY.—Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) (as amended by section 126(1)) is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The Secretary may make loan deficiency payments available to—

''(1) producers on a farm that, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the covered commodity in return for payments under this section; and

''(2) effective only for the 2000 and 2001 crop years, producers that, although not eligible to obtain such a marketing assistance loan under section 131, produce a loan commodity.''.

(2) BENEFICIAL INTEREST.—Section 135(e)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235(e)) (as amended by section 126(2)) is amended by striking ''A producer'' and inserting ''Effective for the 2001 through 2006 crops, a producer''.

(e) COST OF PRODUCTION INSURANCE.—

(1) IN GENERAL.—Section 523 of the Federal Crop Insurance Act (7 U.S.C.1523) by adding at the end the following:

''(e) COST OF PRODUCTION INSURANCE PROGRAM.—

''(1) PILOT PROGRAM.—

''(A) IN GENERAL.—During each of the 2003 through 2006 reinsurance years, the Corporation shall carry out a pilot program throughout the United States under which cost of production crop insurance is made available to producers of agricultural commodities.

''(B) PRIORITY.—Subject to subparagraph (C), in carrying out subparagraph (A), the Corporation shall offer coverage on at least—

''(i) for the 2003 reinsurance year, 20 agricultural commodities;

''(ii) for the 2004 and 2005 reinsurance years, in addition to the agricultural commodities described in clause (i), apples, asparagus, blueberries (wild and domestic), cabbage, canola, carrots, cherries, Christmas trees, citrus, cucumbers, dry beans, eggplant, floriculture, grapes, greenhouse and nursery agricultural commodities, green peas, green peppers, hay, lettuce, maple, mushrooms, pears, potatoes, pumpkins, snap beans, spinach, squash, strawberries, sugar beets, and tomatoes; and

''(iii) for the 2006 reinsurance year, in addition to the agricultural commodities described in clauses (i) and (ii), 10 additional commodities, as determined by the Corporation.

''(C) ACREAGE LIMITATION.—For each of the 2003 through 2006 reinsurance years, the Corporation may not extend coverage under this paragraph in excess of 40 percent of the acreage planted to any agricultural commodity included under the pilot program.

''(2) PERMANENT PROGRAM.—For the 2007 and subsequent reinsurance years, the Corporation shall convert the cost of production insurance program into a permanent program unless the Corporation determines that—

''(A) the program could not be conducted on an actuarially sound basis; or

''(B) the expansion of the coverage would cause increased risk for fraud, waste, or abuse of the program.''.

(2) ADDITIONAL PAYMENT OF PREMIUM.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended by adding at the end the following:

''(6) BONUS PAYMENT.—

''(A) IN GENERAL.—Subject to subparagraph (C), in addition to any other payment authorized under this subsection, the Corporation shall pay an additional part of the premium for crop insurance policies described in subsection (a) as determined by this Corporation for producers that—

''(i) are small or moderate in size;

''(ii) adopt innovative risk management strategies and increase the level of coverage;

''(iii) are producers of a specialty crop and increase the level of coverage; or

''(iv) are located in an underserved area.

''(B) AMOUNT PER POLICY.—A payment under this paragraph shall not exceed $850 per crop insurance policy.

''(C) FUNDING LIMITATION.—The amount of funds of the Corporation that may be used to carry out this paragraph may not exceed—

''(i) $45,000,000 for fiscal year 2003;

''(ii) $50,000,000 for fiscal year 2004; and

''(iii) $61,000,000 for fiscal year 2005 and each subsequent fiscal year.

''(D) RESERVE.—

''(i) IN GENERAL.—Subject to clause (ii), of the funds made available to carry out this paragraph, the Corporation shall reserve for payments to producers that obtain cost of production policies described in section 523(e)—

''(I) $10,400,000 for fiscal year 2003;

''(II) $36,000,000 for fiscal year 2004; and

''(III) $50,000,000 for fiscal year 2005.

''(ii) UNUSED FUNDS.—Any funds made reserved under clause (i) that are not obligated by June 1 of the fiscal year shall be used to provide payments to producers that obtain any type of crop insurance made available under this Act.''.

(3) RESEARCH AND DEVELOPMENT FUNDING.—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) by striking paragraph (1) and inserting the following:

''(1) REIMBURSEMENTS.—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to provide reimbursements under subsection (b) not more than—

''(A) $32,000,000 for fiscal year 2002;

''(B) $22,500,000 for each of fiscal years 2003 and 2004;

''(C) $25,000,000 for fiscal year 2005; and

''(D) $15,000,000 for fiscal year 2006 and each subsequent fiscal year.''.

(4) EDUCATION AND INFORMATION FUNDING.—Section 524(a)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(4)) is amended by striking subparagraph (A) and inserting the following:

''(A) for the education and information program established under paragraph (2)—

''(i) $10,000,000 for each of fiscal years 2002 through 2005; and

''(ii) $5,000,000 for fiscal year 2006 and each subsequent fiscal year; and''.

(5) REPORTS.—

(A) PLAN.—Not later than September 30, 2002, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains an implementation plan for this subsection and the amendments made by this subsection.

(B) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the implementation of this subsection and the amendments made by this subsection.

(f) INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.—Section 401(b)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)(1)) (as amended by section 401) is amended—

(1) in subparagraph (A), by striking ''$120,000,000'' and inserting ''$130,000,000''; and

(2) in subparagraph (B), by striking ''$145,000,000'' and inserting ''$225,000,000''.

SA 2525. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers,

to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 2, strike the period at the end and insert a period and the following:

SEC. 162. LIMITATIONS.

(a) INCOME LIMITATION.—Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. INCOME LIMITATION.

''Notwithstanding any other provision of this Act, an individual or entity shall not receive, directly or indirectly, a payment, loan, or other assistance under this Act if the qualifying gross revenues (as defined in section 196(i)(1)) during a taxable year (as determined by the Secretary) attributable, directly or indirectly, to the individual or entity is in excess of $500,000.''.

(b) ACTIVE FARMERS.—Section 1001A(b)(3) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)(3)) is amended by striking subparagraph (A) and inserting the following:

''(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner—

''(i) receives rent or income for such use of the land based on the land's production or the operation's operating results;

''(ii) meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A); and

''(iii) has owned the land for at least 3 years.''.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.

(a) FISCAL YEARS 2002 THROUGH 2004.—

(1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—

(A) in clause (v), by striking ''and'' at the end; and

(B) by striking clause (vi) and inserting the following:

''(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively;

''(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and

''(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.

(b) FISCAL YEAR 2005 AND THEREAFTER.—

(1) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).

(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on October 1, 2004.

SA 2526. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 2, strike the period at the end and insert a period and the following:

SEC. 162. LIMITATIONS.

(a) INCOME LIMITATION.—Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. INCOME LIMITATION.

''Notwithstanding any other provision of this Act, an individual or entity shall not receive, directly or indirectly, a payment, loan, or other assistance under this Act if the qualifying gross revenues (as defined in section 196(i)(1)) during a taxable year (as determined by the Secretary) attributable, directly or indirectly, to the individual or entity is in excess of $2,500,000.''.

(b) ACTIVE FARMERS.—Section 1001A(b)(3) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)(3)) is amended by striking subparagraph (A) and inserting the following:

''(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner—

''(i) receives rent or income for such use of the land based on the land's production or the operation's operating results;

''(ii) meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A); and

''(iii) has owned the land for at least 3 years.''.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.

(a) FISCAL YEARS 2002 THROUGH 2004.—

(1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—

(A) in clause (v), by striking ''and'' at the end; and

(B) by striking clause (vi) and inserting the following:

''(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively;

''(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and

''(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.

(b) FISCAL YEAR 2005 AND THEREAFTER.—

(1) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).

(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on October 1, 2004.

SA 2527. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 2, strike the period at the end and insert a period and the following:

SEC. 162. LIMITATIONS.

(a) INCOME LIMITATION.—Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. INCOME LIMITATION.

''Notwithstanding any other provision of this Act, an individual or entity shall not receive, directly or indirectly, a payment, loan, or other assistance under this Act if the qualifying gross revenues (as defined in section 196(i)(1)) during a taxable year (as determined by the Secretary) attributable, directly or indirectly, to the individual or entity is in excess of $5,000,000.''.

(b) ACTIVE FARMERS.—Section 1001A(b)(3) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)(3)) is amended by striking subparagraph (A) and inserting the following:

''(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner—

''(i) receives rent or income for such use of the land based on the land's production or the operation's operating results;

''(ii) meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A); and

''(iii) has owned the land for at least 3 years.''.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.

(a) FISCAL YEARS 2002 THROUGH 2004.—

(1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—

(A) in clause (v), by striking ''and'' at the end; and

(B) by striking clause (vi) and inserting the following:

''(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively;

''(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and

''(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.

(b) FISCAL YEAR 2005 AND THEREAFTER.—

(1) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).

(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on October 1, 2004.

SA 2528. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 2, strike the period at the end and insert a period and the following:

SEC. 162. LIMITATIONS.

(a) INCOME LIMITATION.—Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. INCOME LIMITATION.

''Notwithstanding any other provision of this Act, an individual or entity shall not receive, directly or indirectly, a payment, loan, or other assistance under this Act if the qualifying gross revenues (as defined in section 196(i)(1)) during a taxable year (as determined by the Secretary) attributable, directly or indirectly, to the individual or entity is in excess of $5,000,000.''.

(b) ACTIVE FARMERS.—Section 1001A(b)(3) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)(3)) is amended by striking subparagraph (A) and inserting the following:

''(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner—

''(i) receives rent or income for such use of the land based on the land's production or the operation's operating results;

''(ii) meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A); and

''(iii) has owned the land for at least 3 years.''.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.

(a) FISCAL YEARS 2002 THROUGH 2004.—

(1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—

(A) in clause (v), by striking ''and'' at the end; and

(B) by striking clause (vi) and inserting the following:

''(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively;

''(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and

''(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.

(b) FISCAL YEAR 2005 AND THEREAFTER.—

(1) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).

(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on October 1, 2004.

SA 2529. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. CRAIG, Ms. CANTWELL, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 342, strike line 3 and all that follows 373, line 8, and insert the following:

''(A) in addition to any funds that may be specifically appropriated to implement a market access program, not more than $105,000,000 for fiscal year 2002, $180,000,000 for fiscal year 2003, and $200,000,000 for each of fiscal years 2004 through 2006, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation, except that this paragraph shall not apply to section 203(h); and''; and

(4) by adding at the end the following:

''(2) PROGRAM PRIORITIES.—Of funds made available under paragraph (1)(A) in excess of $90,000,000 for any fiscal year, priority shall be given to proposals—

''(A) made by eligible trade organizations that have never participated in the market access program under this title; or

''(B) for market access programs in emerging markets.''.

(b) UNITED STATES QUALITY EXPORT INITIATIVE.—

(1) FINDINGS.—Congress finds that—

(A) the market access program established under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) and foreign market development cooperator program established under title VII of that Act (7 U.S.C. 7251 et seq.) target generic and value-added agricultural products, with little emphasis on the high quality of United States agricultural products; and

(B) new promotional tools are needed to enable United States agricultural products to compete in higher margin, international markets on the basis of quality.

(2) INITIATIVE.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is amended by adding at the end the following:

''(h) UNITED STATES QUALITY EXPORT INITIATIVE.—

''(1) IN GENERAL.—Subject to the availability of appropriations, using the authorities under this section, the Secretary shall establish a program under which, on a competitive basis, using practical and objective criteria, several agricultural products are selected to carry the 'U.S. Quality' seal.

''(2) PROMOTIONAL ACTIVITIES.—Agricultural products selected under paragraph (1) shall be promoted using the 'U.S. Quality' seal at trade fairs in key markets through electronic and print media.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.

SEC. 323. EXPORT ENHANCEMENT PROGRAM.

(a) IN GENERAL.—Section 301(e)(1)(G) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)(G)) is amended by striking ''fiscal year 2002'' and inserting ''each of fiscal years 2002 through 2006''.

(b) UNFAIR TRADE PRACTICES.—Section 102(5)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(5)(A)) is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by striking the period at the end and inserting '', including, in the case of a state trading enterprise engaged in the export of an agricultural commodity, pricing practices that are not consistent with sound commercial practices conducted in the ordinary course of trade; or''; and

(3) by adding at the end the following:

''(iii) changes United States export terms of trade through a deliberate change in the dollar exchange rate of a competing exporter.''.

SEC. 324. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

Section 703 of the Agricultural Trade Act of 1978 (7 U.S.C. 5723) is amended to read as follows:

''SEC. 703. FUNDING.

''(a) IN GENERAL.—To carry out this title, the Secretary shall use funds of the Commodity Credit Corporation, or commodities of the Commodity Credit Corporation of a comparable value, in the following amounts:

''(1) For fiscal year 2002, $37,500,000.

''(2) For fiscal year 2003, $40,000,000.

''(3) For fiscal year 2004 and each subsequent fiscal year, $42,500,000.

''(b) PROGRAM PRIORITIES.—Of funds or commodities provided under subsection (a) in excess of $35,000,000 for any fiscal year, priority shall be given to proposals—

''(1) made by eligible trade organizations that have never participated in the program established under this title; or

''(2) for programs established under this title in emerging markets.''.

SEC. 325. FOOD FOR PROGRESS AND EDUCATION PROGRAMS.

(a) IN GENERAL.—The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

''TITLE VIII—FOOD FOR PROGRESS AND EDUCATION PROGRAMS

''SEC. 801. DEFINITIONS.

''In this title:

''(1) COOPERATIVE.—The term 'cooperative' means a private sector organization the members of which—

''(A) own and control the organization;

''(B) share in the profits of the organization; and

''(C) are provided services (such as business services and outreach in cooperative development) by the organization.

''(2) CORPORATION.—The term 'Corporation' means the Commodity Credit Corporation.

''(3) DEVELOPING COUNTRY.—The term 'developing country' means a foreign country that has—

''(A) a shortage of foreign exchange earnings; and

''(B) difficulty meeting all of the food needs of the country through commercial channels and domestic production.

''(4) ELIGIBLE COMMODITY.—The term 'eligible commodity' means an agricultural commodity (including vitamins and minerals) acquired by the Secretary or the Corporation for disposition in a program authorized under this title through—

''(A) commercial purchases; or

''(B) inventories of the Corporation.

''(5) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means a private voluntary organization, cooperative, nongovernmental organization, or foreign country, as determined by the Secretary.

''(6) EMERGING AGRICULTURAL COUNTRY.—The term 'emerging agricultural country' means a foreign country that—

''(A) is an emerging democracy; and

''(B) has made a commitment to introduce or expand free enterprise elements in the agricultural economy of the country.

''(7) FOOD SECURITY.—The term 'food security' means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

''(8) NONGOVERNMENTAL ORGANIZATION.—

''(A) IN GENERAL.—The term 'nongovernmental organization' means an organization that operates on a local level to solve development problems in a foreign country in which the organization is located.

''(B) EXCLUSION.—The term 'nongovernmental organization' does not include an organization that is primarily an agency or instrumentality of the government of a foreign country.

''(9) PRIVATE VOLUNTARY ORGANIZATION.—The term 'private voluntary organization' means a nonprofit, nongovernmental organization that—

''(A) receives—

''(i) funds from private sources; and

''(ii) voluntary contributions of funds, staff time, or in-kind support from the public;

''(B) is engaged in or is planning to engage in nonreligious voluntary, charitable, or development assistance activities; and

''(C) in the case of an organization that is organized under the laws of the United States or a State, is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code.

''(10) PROGRAM.—The term 'program' means a food or nutrition assistance or development initiative proposed by an eligible organization and approved by the Secretary under this title.

''(11) RECIPIENT COUNTRY.—The term 'recipient country' means an emerging agricultural country that receives assistance under a program.

''SEC. 802. FOOD FOR PROGRESS AND EDUCATION PROGRAMS.

''(a) IN GENERAL.—To provide agricultural commodities to support the introduction or expansion of free trade enterprises in national economies in recipient countries, and to provide food or nutrition assistance in recipient countries, the Secretary shall establish food for progress and education programs under which the Secretary may enter into agreements (including multiyear agreements and for programs in more than 1 country) with—

''(1) the governments of emerging agricultural countries;

''(2) private voluntary organizations;

''(3) nonprofit agricultural organizations and cooperatives;

''(4) nongovernmental organizations; and

''(5) other private entities.

''(b) CONSIDERATIONS.—In determining whether to enter into an agreement to establish a program under subsection (a), the Secretary shall take into consideration whether an emerging agricultural country is committed to carrying out, or is carrying out, policies that promote—

''(1) economic freedom;

''(2) private production of food commodities for domestic consumption; and

''(3) the creation and expansion of efficient domestic markets for the purchase and sale of those commodities.

''(c) INTERNATIONAL FOOD FOR EDUCATION AND NUTRITION PROGRAM.—

''(1) IN GENERAL.—In cooperation with other countries, the Secretary shall establish an initiative within the food for progress and education programs under this title to be known as the 'International Food for Education and Nutrition Program', through which the Secretary may provide to eligible organizations agricultural commodities and technical and nutritional assistance in connection with education programs to improve food security and enhance educational opportunities for preschool age and primary school age children in recipient countries.

''(2) AGREEMENTS.—In carrying out this subsection, the Secretary—

''(A) shall administer the programs under this subsection in manner that is consistent with this title; and

''(B) may enter into agreements with eligible organizations—

''(i) to purchase, acquire, and donate eligible commodities to eligible organizations to carry out agreements in recipient countries; and

''(ii) to provide technical and nutritional assistance to carry out agreements in recipient countries.

''(3) OTHER DONOR COUNTRIES.—The Secretary shall encourage other donor countries, directly or through eligible organizations—

''(A) to donate goods and funds to recipient countries; and

''(B) to provide technical and nutritional assistance to recipient countries.

''(4) PRIVATE SECTOR.—The President and the Secretary are urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs and activities assisted under this subsection.

''(5) GRADUATION.—An agreement with an eligible organization under this subsection shall include provisions—

''(A)(i) to sustain the benefits to the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under the program under this subsection terminates; and

''(ii) to estimate the period of time required until the recipient country or eligible organization is able to provide sufficient assistance without additional assistance under this subsection; or

''(B) to provide other long-term benefits to targeted populations of the recipient country.

''(6) ANNUAL 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 an annual report that describes—

''(A) the results of the implementation of this subsection during the year covered by the report, including the impact on the enrollment, attendance, and performance of children in preschools and primary schools targeted under the program under this subsection; and

''(B) the level of commitments by, and the potential for obtaining additional goods and assistance from, other countries for subsequent years.

''(d) TERMS.—

''(1) IN GENERAL.—The Secretary may provide agricultural commodities under this title on—

''(A) a grant basis; or

''(B) subject to paragraph (2), credit terms.

''(2) CREDIT TERMS.—Payment for agricultural commodities made available under this title that are purchased on credit terms shall be made on the same basis as payments made under section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703).

''(3) NO EFFECT ON DOMESTIC PROGRAMS.—The Secretary shall not make an agricultural commodity available for disposition under this section in any amount that will reduce the amount of the commodity that is traditionally made available through donations to domestic feeding programs or agencies, as determined by the Secretary.

''(e) REPORTS.—Each eligible organization that enters into an agreement under this title shall submit to the Secretary, at such time as the Secretary may request, a report containing such information as the Secretary may request relating to the use of agricultural commodities and funds provided to the eligible organization under this title.

''(f) COORDINATION.—To ensure that the provision of commodities under this section is coordinated with and complements other foreign assistance provided by the United States, assistance under this section shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

''(g) QUALITY ASSURANCE.—

''(1) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that each eligible organization participating in 1 or more programs under this section—

''(A) uses eligible commodities made available under this title—

''(i) in an effective manner;

''(ii) in the areas of greatest need; and

''(iii) in a manner that promotes the purposes of this title;

''(B) in using eligible commodities, assesses and takes into account the needs of recipient countries and the target populations of the recipient countries;

''(C) works with recipient countries, and indigenous institutions or groups in recipient countries, to design and carry out mutually acceptable programs authorized in subsection (h)(2)(C)(i);

''(D) monitors and reports on the distribution or sale of eligible commodities provided under this title using methods that, as determined by the Secretary, facilitate accurate and timely reporting;

''(E) periodically evaluates the effectiveness of the program of the eligible organization, including, as applicable, an evaluation of whether the development or food and nutrition purposes of the program can be sustained in a recipient country if the assistance provided to the recipient country is reduced and eventually terminated; and

''(F) considers means of improving the operation of the program of the eligible organization.

''(2) CERTIFIED INSTITUTIONAL PARTNERS.—

''(A) IN GENERAL.—The Secretary shall promulgate regulations and guidelines to permit private voluntary organizations and cooperatives to be certified as institutional partners.

''(B) REQUIREMENTS.—To become a certified institutional partner, a private voluntary organization or cooperative shall submit to the Secretary a certification of organizational capacity that describes—

''(i) the financial, programmatic, commodity management, and auditing abilities and practices of the organization or cooperative; and

''(ii) the capacity of the organization or cooperative to carry out projects in particular countries.

''(C) MULTICOUNTRY PROPOSALS.—A certified institutional partner shall be eligible to—

''(i) submit a single proposal for 1 or more countries that are the same as, or similar to, those countries in which the certified institutional partner has already demonstrated organizational capacity;

''(ii) receive expedited review and approval of the proposal; and

''(iii) request commodities and assistance under this section for use in 1 or more countries.

''(D) MULTIYEAR AGREEMENTS.—In carrying out this title, on request and subject to the availability of commodities, the Secretary is encouraged to approve agreements that provide for commodities to be made available for distribution on a multiyear basis, if the agreements otherwise meet the requirements of this title.

''(h) TRANSSHIPMENT AND RESALE.—

''(1) IN GENERAL.—The transshipment or resale of an eligible commodity to a country other than a recipient country shall be prohibited unless the transshipment or resale is approved by the Secretary.

''(2) MONETIZATION.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (D), an eligible commodity provided under this section may be sold for foreign currency or United States dollars or bartered, with the approval of the Secretary.

''(B) SALE OR BARTER OF FOOD ASSISTANCE.—The sale or barter of eligible commodities under this title may be conducted only within (as determined by the Secretary)—

''(i) a recipient country or country nearby to the recipient country; or

''(ii) another country, if—

''(I) the sale or barter within the recipient country or nearby country is not practicable; and

''(II) the sale or barter within countries other than the recipient country or nearby country will not disrupt commercial markets for the agricultural commodity involved.

''(C) HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary may authorize the use of proceeds or exchanges to reimburse, within a recipient country or other country in the same region, the costs incurred by an eligible organization for—

''(i)(I) programs targeted at hunger and malnutrition; or

''(II) development programs involving food security or education;

''(ii) transportation, storage, and distribution of eligible commodities provided under this title; and

''(iii) administration, sales, monitoring, and technical assistance.

''(D) EXCEPTION.—The Secretary shall not approve the use of proceeds described in subparagraph (C) to fund any administrative expenses of a foreign government.

''(E) PRIVATE SECTOR ENHANCEMENT.—As appropriate, the Secretary may provide eligible commodities under this title in a manner that uses commodity transactions as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing, and distribution of commodities.

''(i) DISPLACEMENT OF COMMERCIAL SALES.—In carrying out this title, the Secretary shall, to the maximum extent practicable consistent with the purposes of this title, avoid—

''(1) displacing any commercial export sale of United States agricultural commodities that would otherwise be made;

''(2) disrupting world prices of agricultural commodities; or

''(3) disrupting normal patterns of commercial trade of agricultural commodities with foreign countries.

''(j) DEADLINE FOR PROGRAM ANNOUNCEMENTS.—

''(1) IN GENERAL.—Before the beginning of the applicable fiscal year, the Secretary shall, to the maximum extent practicable—

''(A) make all determinations concerning program agreements and resource requests for programs under this title; and

''(B) announce those determinations.

''(2) REPORT.—Not later than November 1 of the applicable 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 list of programs, countries, and commodities, and the total amount of funds for transportation and administrative costs, approved to date under this title.

''(k) MILITARY DISTRIBUTION OF ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that agricultural commodities made available under this title are provided without regard to—

''(A) the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient; or

''(B) any other extraneous factors, as determined by the Secretary.

''(2) PROHIBITION ON HANDLING OF COMMODITIES BY THE MILITARY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall not enter into an agreement under this title to provide agricultural commodities if the agreement requires or permits the distribution, handling, or allocation of agricultural commodities by the military forces of any foreign government or insurgent group.

''(B) EXCEPTION.—The Secretary may authorize the distribution, handling, or allocation of commodities by the military forces of a country in exceptional circumstances in which—

''(i) nonmilitary channels are not available for distribution, handling, or allocation;

''(ii) the distribution, handling, or allocation is consistent with paragraph (1); and

''(iii) the Secretary determines that the distribution, handling, or allocation is necessary to meet the emergency health, safety, or nutritional requirements of the population of a recipient country.

''(3) ENCOURAGEMENT OF SAFE PASSAGE.—In entering into an agreement under this title that involves 1 or more areas within a recipient country that is experiencing protracted warfare or civil unrest, the Secretary shall, to the maximum extent practicable, encourage all parties to the conflict to—

''(A) permit safe passage of the commodities and other relief supplies; and

''(B) establish safe zones for—

''(i) medical and humanitarian treatment; and

''(ii) evacuation of injured persons.

''(l) LEVEL OF ASSISTANCE.—The cost of commodities made available under this title, and the expenses incurred in connection with the provision of those commodities shall be in addition to the level of assistance provided under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

''(m) COMMODITY CREDIT CORPORATION.—

''(1) IN GENERAL.—Subject to paragraphs (6) through (8), the Secretary may use the funds, facilities, and authorities of the Corporation to carry out this title.

''(2) MINIMUM TONNAGE.—Subject to paragraphs (5) and (7)(B), not less than 400,000 metric tons of commodities may be provided under this title for each of fiscal years 2002 through 2006.

''(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to tonnage authorized under paragraph (2), there are authorized to be appropriated such sums as are necessary to carry out this title.

''(4) TITLE I FUNDS.—In addition to tonnage and funds authorized under paragraphs (2), (3), and (7)(B), the Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.)) in carrying out this section with respect to commodities made available under this title.

''(5) INTERNATIONAL FOOD FOR EDUCATION AND NUTRITION PROGRAM.—

''(A) IN GENERAL.—Of the funds that would be available to carry out paragraph (2), the Secretary may use not more than $200,000,000 for each fiscal year to carry out the initiative established under subsection (c).

''(B) REALLOCATION.—Tons not allocated under subsection (c) by June 30 of each fiscal year shall be made available for proposals submitted under the food for progress and education programs under subsection (a).

''(6) LIMITATION ON PURCHASES OF COMMODITIES.—The Corporation may purchase agricultural commodities for disposition under this title only if Corporation inventories are insufficient to satisfy commitments made in agreements entered into under this title.

''(7) ELIGIBLE COSTS AND EXPENSES.—

''(A) IN GENERAL.—Subject to subparagraph (B), with respect to an eligible commodity made available under this title, the Corporation may pay—

''(i) the costs of acquiring the eligible commodity;

''(ii) the costs associated with packaging, enriching, preserving, and fortifying of the eligible commodity;

''(iii) the processing, transportation, handling, and other incidental costs incurred before the date on which the commodity is delivered free on board vessels in United States ports;

''(iv) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

''(v) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

''(I) a recipient country is landlocked;

''(II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

''(III) carriers to a specific country are unavailable; or

''(IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

''(vi) the transportation and associated distribution costs incurred in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;

''(vii) in the case of an activity under subsection (c), the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the Secretary determines that payment of the costs is appropriate and that 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;

''(viii) the charges for general average contributions arising out of the ocean transport of commodities transferred; and

''(ix) the costs, in addition to costs authorized by clauses (i) through (viii), of providing—

''(I) assistance in the administration, sale, and monitoring of food assistance activities under this title; and

''(II) technical assistance for monetization programs.

''(B) FUNDING.—Except for costs described in subparagraph (A)(i), not more than $80,000,000 of funds that would be made available to carry out paragraph (2) may be used to cover costs under this paragraph unless authorized in advance in an appropriation Act.

''(8) PAYMENT OF ADMINISTRATIVE COSTS.—An eligible organization that receives payment for administrative costs through monetization of the eligible commodity under subsection (h)(2) shall not be eligible to receive payment for the same administrative costs through direct payments under paragraph (7)(A)(ix)(I).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 416(b)(7)(D)(iii) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(iii)) is amended by striking ''the Food for Progress Act of 1985'' and inserting ''title VIII of the Agricultural Trade Act of 1978''.

(2) The Act of August 19, 1958 (7 U.S.C. 1431 note; Public Law 85–683) is amended by striking ''the Food for Progress Act of 1985'' and inserting ''title VIII of the Agricultural Trade Act of 1978''.

(3) Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is repealed.

SEC. 326. EXPORTER ASSISTANCE INITIATIVE.

(a) FINDINGS.—Congress find that—

(1) information in the possession of Federal agencies other than the Department of Agriculture that is necessary for the export of agricultural commodities and products is available only from multiple disparate sources; and

(2) because exporters often need access to information quickly, exporters lack the time to search multiple sources to access necessary information, and exporters often are unaware of where the necessary information can be located.

(b) INITIATIVE.—Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

''SEC. 107. EXPORTER ASSISTANCE INITIATIVE.

''(a) IN GENERAL.—In order to create a single source of information for exports of United States agricultural commodities, the Secretary shall develop a website on the Internet that collates onto a single website all information from all agencies of the Federal Government that is relevant to the export of United States agricultural commodities.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a)—

''(1) $1,000,000 for each of fiscal years 2002 through 2004; and

''(2) $500,000 for each of fiscal years 2005 and 2006.''.

Subtitle C—Miscellaneous Agricultural Trade Provisions

SEC. 331. BILL EMERSON HUMANITARIAN TRUST.

Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1) is amended by striking ''2002'' each place it appears in subsection (b)(2)(B)(i) and paragraphs (1) and (2) of subsection (h) and inserting ''2006''.

SEC. 332. EMERGING MARKETS.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101–624) is amended by striking ''2002'' each place it appears in subsections (a) and (d)(1)(A)(i) and inserting ''2006''.

SEC. 333. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101–624) is amended by adding at the end the following:

''(g) BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.—

''(1) IN GENERAL.—The Secretary of Agriculture shall establish a program to enhance foreign acceptance of agricultural biotechnology and United States agricultural products developed through biotechnology.

''(2) FOCUS.—The program shall address the continuing and increasing market access, regulatory, and marketing issues relating to export commerce of United States agricultural biotechnology products.

''(3) EDUCATION AND OUTREACH.—

''(A) FOREIGN MARKETS.—Support for United States agricultural market development organizations to carry out education and other outreach efforts concerning biotechnology shall target such educational initiatives directed toward—

''(i) producers, buyers, consumers, and media in foreign markets through initiatives in foreign markets; and

''(ii) government officials, scientists, and trade officials from foreign countries through exchange programs.

''(B) FUNDING FOR EDUCATION AND OUTREACH.—Funding for activities under subparagraph (A) may be—

''(i) used through—

''(I) the emerging markets program under this section; or

''(II) the Cochran Fellowship Program under section 1543; or

''(ii) applied directly to foreign market development cooperators through the foreign market development cooperator program established under section 702.

''(4) RAPID RESPONSE.—

''(A) IN GENERAL.—The Secretary shall assist exporters of United States agricultural commodities in cases in which the exporters are harmed by unwarranted and arbitrary barriers to trade due to—

''(i) marketing of biotechnology products;

''(ii) food safety;

''(iii) disease; or

''(iv) other sanitary or phytosanitary concerns.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $1,000,000 for each of fiscal years 2002 through 2006.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection (other than paragraph (4)) $15,000,000 for each of fiscal years 2002 through 2006.''.

SA 2530. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of subtitle C of title III and insert a period and 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.

SA 2531. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 1028 and insert a period and the following:

SEC. 1029. 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 ''$20,000,000'' and inserting ''40,000,000''; 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.''.

SA 2532. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food an fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, line 21, strike the quotation marks and the following period and interest the following:

''(iii) INTEGRATED FACILITIES—

''(I) DEFINITION OF INTEGRATED FACILITY.—In this clause, the term 'integrated facility' means a sugar processing facility that is capable or processing both sugar beets and sugarcane.

''(II) USE OF ALLOCATIONS.—Nothwithstanding any other provision of law, an allocation made to sugar beet processors and growers in a State in which the ability to grow sugarcane is demonstrated may be used by sugarcane processors and growers to process sugarcane at an integrated facility.

''(III) AVAILABIITY OF ALLOCATIONS.— A beet sugar allocation of 100,000 short tons shall be reserved for sugarcane processing at an integrated facility in 2004 and shall be increased to 175,000 short tons in 2005 and each year beyond for the duration of this Act. Such beet sugar allocation shall be in addition to the allocation made to the processor for best sugar processing. The Secretary may temporarily reassign such allotments in such amounts and for such periods as is not needed by the integrated facility.

''(IV) MARKETING ALLOTMENT.—Notwithstanding paragrah (1) of section 359c(d), sugar processed at an integrated facility may be used to fill a marketing allocation under that paragraph.

''(V) NO CHARGE TOWARD ALLOTMENT.—Sugarcane processed under the allocation established in subclause (III) shall not be charged toward the overall sugarcane allotment under section 359c.

''(VI) ELIGIBILITY FOR LOANS.—The sugarcane processing operation at an integrated facility shall be eligible for loans under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), as amended by this Act at the rate applicable to sugarcane.''

SA 2533. Mr. CRAPO (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 215.

SA 2534. Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. WELLSTONE, Mr. HARKIN, Mr. THOMAS, Mr. DORGAN, Mr. FEINGOLD, and Mr. DASCHLE) 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 886, strike line 5 and insert the following:

Subtitle C—General Provisions

SEC. 1021. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

''(f) Own, feed, or control livestock intended for slaughter (for more than 14 days prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer), except that this subsection shall not apply to—

''(1) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

''(A) own, feed, or control livestock; and

''(B) provide the livestock to the cooperative for slaughter; or

''(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or''; and

(3) in subsection (h) (as so redesignated), by striking ''or (e)'' and inserting ''(e), or (f)''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

SA 2535. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 376, after line 24, insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that all convicted felons wanted by the Federal Bureau of Investigation who are currently living as fugitives in Cuba have been returned to the United States for incarceration.

SA 2536. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 743 and insert the following:

SEC. 743. PRECISION AGRICULTURE.

Section 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 (b)(1) by striking ''may'' and inserting ''shall'';

(3) 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'';

(4) 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.'';

(5) in subsection (e), by inserting ''the amount that is equal to 3 times'' before ''the amount that''; and

(6) in subsection (i)(1), by striking ''2002'' and inserting ''2006''.

SA 2537. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1731 to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 53, line 24, strike the period at the end and insert a period and the following:

SEC. 1___. EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.

(a) IN GENERAL.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

''(M) EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this section, no handler that sells Class I milk in a marketing area shall be exempt during any month from any minimum milk price requirement established under paragraph (A) if the total distribution of Class I milk produced on the farm of the handler in the marketing area during the preceding month exceeds the lesser of—

''(i) 3 percent of the total quantity of Class I milk distributed in the marketing area; or

''(ii) 5,000,000 pounds.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2002.

SA 2538. Mr. THURMOND (for himself and Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, line 8, strike the period at the end and insert a period and the following:

SEC. 1___. LEASE AND TRANSFER OF CERTAIN ALLOTMENTS AND QUOTAS.

(a) IN GENERAL.—Section 316(a)(1)(A)(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(i)) is amended in the last sentence by inserting ''(other than the 2002 and 2003 crops)'' after ''crops''.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study of the effects of the prohibition provided under the last sentence of section 316(a)(1)(A)(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(i)).

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study.

SA 2539. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1731 to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 707, strike line 16 and all that follows through page 708, line 20, and insert the following:

SEC. 741. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) IN GENERAL.—Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) FUNDING.—

''(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account to carry out this section—

''(A) not later than 30 days after the date of enactment of this subparagraph, $240,000,000; and

''(B) on October 1, 2002, and each October 1 thereafter through October 1, 2005, $360,000,000.

''(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.''; and

(2) in subsection (e), by adding at the end the following:

''(3) MINORITY-SERVING INSTITUTIONS.—The Secretary shall consider reserving, to the maximum extent practicable, 10 percent of the funds made available to carry out this section for a fiscal year for grants to minority-serving institutions.''.

(b) OFFSET.—Section 158G of the Federal Agriculture Improvement and Reform Act of 1996 (as added by section 151(a)) shall have no effect.

SA 2540. Mr. NICKLES submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr.

DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 165 and insert the following:

SEC. 165. PAYMENT LIMITATIONS AND GROSS INCOME LIMITATION.

(a) PAYMENT LIMITATION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) LIMITATIONS ON PAYMENT UNDER CONTRACT COMMODITY CONTRACTS.—Subject to paragraph (3), the total amount of contract payments made under title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.) to a person under 1 or more contracts during any fiscal year may not exceed $100,000.

''(2) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

''(A) IN GENERAL.—Subject to paragraph (3), the total amount of the payments and benefits specified in subparagraph (B) that a person shall be entitled to receive during any crop year may not exceed $150,000, with a separate limitation for—

''(i) all loan commodities (other than wool, mohair, and honey);

''(ii) wool and mohair

''(iii) honey; and

''(iv) peanuts.

''(B) PAYMENTS.—The payments referred to in subparagraph (A) are the following:

''(i) MARKETING LOAN GAINS.—Any gain realized from repaying a marketing assistance loan under sections 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity under sections 132 or 158G(d) of the Act, respectively.

''(ii) LOAN DEFICIENCY PAYMENTS.—Any loan deficiency payment received for a loan commodity under sections 135 or 158G(e) of that Act, respectively.

''(iii) COMMODITY CERTIFICATES.—Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation, as determined by the Secretary, including the use of a certificate for the settlement of marketing assistance loan under section 134 or 158G(d), respectively, of that Act.

''(3) OVERALL LIMITATION.—The total amount of payments described in paragraph (1) and (2) made to a person during any fiscal year may not exceed $150,000.''.

SA 2541. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . OPERATION AND MAINTENANCE OF WHITE MOUNTAIN NATIONAL FOREST.

For a program under which the Secretary of Agriculture shall employ former employees of the American Tissue Mills in the cities of Berlin and Gorham in the State of New Hampshire to carry out operation and maintenance projects at White Mountain National Forest in the State of New Hampshire, there is appropriated $1,750,000, to remain available until expended.

SA 2542. Mr. SANTORUM (for himself, Mr. DURBIN, Mr. FEINGOLD, Mr. DEWINE, Mr. KOHL, Mr. HATCH, Mrs. CLINTON, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 945, line 5, strike the period at the end and insert a period and the following:

SEC. 1024. IMPROVED STANDARDS FOR THE CARE AND TREATMENT OF CERTAIN ANIMALS.

(a) SOCIALIZATION PLAN; BREEDING RESTRICTIONS.—Section 13(a)(2) of the Animal Welfare Act (7 U.S.C. 2143(a)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(C) for the socialization of dogs intended for sale as pets with other dogs and people, through compliance with a standard developed by the Secretary based on the recommendations of animal welfare and behavior experts that—

''(i) prescribes a schedule of activities and other requirements that dealers and inspectors shall use to ensure adequate socialization; and

''(ii) identifies a set of behavioral measures that inspectors shall use to evaluate adequate socialization; and

''(D) for addressing the initiation and frequency of breeding of female dogs so that a female dog is not—

''(i) bred before the female dog has reached at least 1 year of age; and

''(ii) whelped more frequently than 3 times in any 24-month period.''.

(b) SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.—Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended—

(1) by striking ''SEC. 19. (a) If the Secretary'' and inserting the following:

''SEC. 19. SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.

''(a) SUSPENSION OR REVOCATION OF LICENSE.—

''(1) IN GENERAL.—If the Secretary'';

(2) in subsection (a)—

(A) in paragraph (1) (as designated by paragraph (1)), by striking ''if such violation'' and all that follows and inserting ''if the Secretary determines that 1 or more violations have occurred.''; and

(B) by adding at the end the following:

''(2) LICENSE REVOCATION.—If the Secretary finds that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12, has committed a serious violation (as determined by the Secretary) of any rule, regulation, or standard governing the humane handling, transportation, veterinary care, housing, breeding, socialization, feeding, watering, or other humane treatment of dogs under section 12 or 13 on 3 or more separate inspections within any 8-year period, the Secretary shall—

''(A) suspend the license of the person for 21 days; and

''(B) after providing notice and a hearing not more than 30 days after the third violation is noted on an inspection report, revoke the license of the person unless the Secretary makes a written finding that—

''(i) the violations were minor and inadvertent;

''(ii) the violations did not pose a threat to the dogs; or

''(iii) revocation is inappropriate for other good cause.'';

(3) in subsection (b), by striking ''(b) Any dealer'' and inserting ''(b) CIVIL PENALTIES.—Any dealer'';

(4) in subsection (c), by striking ''(c) Any dealer'' and inserting ''(c) JUDICIAL REVIEW.—Any dealer''; and

(5) in subsection (d), by striking ''(d) Any dealer'' and inserting ''(d) CRIMINAL PENALTIES.—Any dealer''.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to carry out the amendments made by this section, including development of the standards required by the amendments made by subsection (a).

SA 2543. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 178, strike line 22 and all that follows through page 182, line 24, and insert the following:

''(f) CERTIFICATION OF PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, subject to paragraphs (2), (3), and (4), establish a more effective and more broadly functioning system for the delivery of technical assistance in support of the conservation programs administered by the Secretary by—

''(A) integrating the use of third party technical assistance providers (including farmers and ranchers) into the technical assistance delivery system; and

''(B) using, to the maximum extent practicable, private, third party providers.

''(2) PURPOSE.—To achieve the timely completion of conservation plans and other technical assistance functions, third party providers described in paragraph (1)(A) shall be used to—

''(A) prepare conservation plans, including agronomically sound nutrient management plans;

''(B) design, install and certify conservation practices;

''(C) train producers; and

''(D) carry out such other activities as the Secretary determines to be appropriate.

''(3) OUTSIDE ASSISTANCE.—

''(A) IN GENERAL.—The Secretary may contract directly with qualified persons not employed by the Department to provide conservation technical assistance.

''(B) PAYMENT BY SECRETARY.—

''(i) IN GENERAL.—The Secretary shall provide a payment or voucher to an owner or operator enrolled in a conservation program administered by the Secretary if the owner or operator elects to obtain technical assistance from a person certified to provide technical assistance under this subsection.

''(ii) DETERMINATION.—In determining whether to provide a payment or voucher under clause (i), the Secretary shall seek to maximize the assistance received from qualified persons to most expeditiously and efficiently achieve the objectives of this title.

''(4) CERTIFICATION OF PUBLIC AND PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.—

''(A) ESTABLISHMENT OF PROCEDURES.—The Secretary shall establish procedures for ensuring that only persons with the training, experience, and capability to provide professional, high quality assistance are certified by the Secretary to provide, to agricultural producers and landowners participating, or seeking to participate, in a conservation program administered by the Secretary, technical assistance in planning, designing, or certifying any aspect of a particular project under the conservation program.

''(B) PUBLIC AND PRIVATE PROVIDERS.—Certified technical assistance providers shall include—

''(i) agricultural producers;

''(ii) agribusiness representatives;

''(iii) representatives from agricultural cooperatives;

''(iv) agricultural input retail dealers;

''(v) certified crop advisers;

''(vi) employees of the Department; or

''(vii) any group recognized by a Memorandum of Understanding with the Department relating to certification.

''(C) EQUIVALENCE.—The Secretary shall ensure that any certification program of the Department for public and private technical service providers shall meet or exceed the testing and continuing education standards of the Certified Crop Adviser program.

''(D) 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.

''(E) CERTIFICATION REQUIRED.—A provider may not provide to any producer technical assistance described in subparagraph (B) unless the provider is certified by the Secretary.

''(F) NONDUPLICATION OF PREVIOUS CERTIFICATION.—The Secretary shall consider a certified provider to have skills and qualifications in a particular area of technical expertise if the skills and qualifications of the provider have been certified by another entity the certification program of which meets nationally recognized and accepted standards for training, testing and otherwise establishing professional qualifications (including the Certified Crop Adviser program).

''(G) FEE.—

''(i) PAYMENT.—

''(I) IN GENERAL.—Except as provided in subclause (II), in exchange for certification or recertification, a private provider shall pay to the Secretary a fee in an amount determined by the Secretary.

''(II) PRIOR CERTIFICATION.—The Secretary shall not require a provider to pay a fee under subclause (I) for the certification of skills and qualifications that have already been certified by another entity under this subsection.

''(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.

''(H) NATIONAL TRAINING CENTERS.—

''(i) IN GENERAL.—The Secretary, acting in close cooperation with the Certified Crop Adviser program, shall establish training centers to facilitate the training and certification of technical assistance providers under this subsection.

''(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subparagraph.

''(I) OTHER REQUIREMENTS.—The Secretary may establish such other requirements as the Secretary determines are necessary to carry out this subsection.

''(J) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this subsection.

SA 2544. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 39, strike line 5 and all that follows through page 40, line 8, and insert the following:

SEC. 126. LOAN DEFICIENCY PAYMENTS.

Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) is amended to read as follows:

''SEC. 135. LOAN DEFICIENCY PAYMENTS.

''(a) IN GENERAL.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to—

''(1) producers on a farm that, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the loan commodity in return for payments under this section; and

''(2) effective only for each of the 2000 and 2001 crop years, producers that, although not eligible to obtain such a marketing assistance loan under section 131, produce a loan commodity.

''(b) COMPUTATION.—A loan deficiency payment under this section shall be computed by multiplying—

''(1) the loan payment rate determined under subsection (c) for the loan commodity; by

''(2) the quantity of the loan commodity produced by the eligible producers, excluding any quantity for which the producers obtain a loan under section 131.

''(c) LOAN PAYMENT RATE.—For purposes of this section, the loan payment rate shall be the amount by which—

''(1) the loan rate established under section 132 for the loan commodity; exceeds

''(2) the rate at which a loan for the commodity may be repaid under section 134.

''(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

''(e) TIME FOR PAYMENT.—The Secretary shall make a payment under this section to the producers on a farm with respect to a quantity of a loan commodity as of the earlier of—

''(1) the date on which the producers on the farm marketed or otherwise lost beneficial interest in the loan commodity, as determined by the Secretary; or

''(2) the date the producers on the farm request the payment.

''(f) LOST BENEFICIAL INTEREST.—Effective for the 2001 crop only, if a producer eligible for a payment under subsection (a) loses beneficial interest in the loan commodity, the producer shall be eligible for the payment determined as of the date the producer lost beneficial interest in the loan commodity, as determined by the Secretary.''.

SEC. 127. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

Subtitle C of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

''SEC. 138. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

''(a) IN GENERAL.—For each of the 2002 through 2006 crops of wheat, grain sorghum, barley, and oats, in the case of the producers on a farm that would be eligible for a loan deficiency payment under section 135 for wheat, grain sorghum, barley, or oats, but that elects to use acreage planted to the wheat, grain sorghum, barley, or oats for the grazing of livestock, the Secretary shall 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 2002 through 2006 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.''.

SA 2545. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber,

and for other purposes; which was ordered to lie on the table; as follows:

In section _____, at the end of subsection (____), add the following:

''(____) AVAILABILITY.—Of amounts made available under paragraph (____) for a fiscal year, $2,000,000 shall be made available to the Center for Dairy Herd Health of the University of California at Davis for—

(A) research on Johne's disease and other major diseases of dairy cows;

(B) outreach and education to dairy producers regarding testing;

(C) testing for dairy herds;

(D) development of best management practices and biosecurity plans to reduce, eliminate, and prevent disease; and

(E) other appropriate activities to support the animal health of dairy operations, including food safety management practices.

SA 2546. Mr. WYDEN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber, and for other purposes; as follows:

Beginning in section 902, strike chapter 3 of subtitle L of the Consolidated Farm and Rural Development Act (as added by that section) and all that follows through section 905 and insert the following:

"CHAPTER 3—CARBON SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

"SEC. 388J. RESEARCH.

''(a) BASIC RESEARCH.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall carry out research to promote understanding of—

''(A) the net sequestration of organic carbon in soils and plants (including trees); and

''(B) net emissions of other greenhouse gases from agriculture.

''(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing carbon losses and gains in soils and plants (including trees) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

''(3) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

''(A) IN GENERAL.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) by eligible entities.

''(B) ELIGIBLE ENTITIES.—Under subparagraph (A), the Secretary may make a grant to—

''(i) a Federal research agency;

''(ii) a national laboratory;

''(iii) a college or university or a research foundation maintained by a college or university;

''(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer;

''(v) a State agricultural experiment station;

''(vi) a State forestry agency that has developed or is developing a forest carbon sequestration program; or

''(vii) an individual.

''(C) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Education, and Extension Service shall consult with the Agricultural Research Service and the Forest Service to ensure that proposed research areas are complementary with and do not duplicate other research projects funded by the Department or other Federal agencies.

''(D) ADMINISTRATIVE EXPENSES.—The Secretary may retain up to 4 percent of the amounts made available for each fiscal year to carry out this subsection to pay administrative expenses incurred in carrying out this subsection.

''(b) APPLIED RESEARCH.—

''(1) IN GENERAL.—The Secretary shall carry out applied research in the areas of soil science, agronomy, agricultural economics, forestry, and other agricultural sciences to—

''(A) promote understanding of—

''(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soils and plants (including trees) and net emissions of other greenhouse gases;

''(ii) how changes in soil carbon pools in soils and plants (including trees) are cost-effectively measured, monitored, and verified; and

''(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

''(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and

''(C) evaluate leakage and performance issues.

''(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

''(A) use existing technologies and methods; and

''(B) provide methodologies that are accessible to a nontechnical audience.

''(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

''(4) NATURAL RESOURCES AND THE ENVIRONMENT.—The Secretary, acting through the Natural Resources Conservation Service and the Forest Service, shall collaborate with other Federal agencies in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

''(A) changes in carbon content in soils and plants (including trees); and

''(B) net emissions of other greenhouse gases.

''(5) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

''(A) IN GENERAL.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service and the Forest Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by eligible entities.

''(B) ELIGIBLE ENTITIES.—Under subparagraph (A), the Secretary may make a grant to—

''(i) a Federal research agency;

''(ii) a national laboratory;

''(iii) a college or university or a research foundation maintained by a college or university;

''(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer;

''(v) a State agricultural experiment station;

''(vi) a State forestry agency that has developed or is developing a forest carbon sequestration program; or

''(vii) an individual.

''(C) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Education, and Extension Service and the Forest Service shall consult with the Natural Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects funded by the Department of Agriculture or other Federal agencies.

''(D) ADMINISTRATIVE EXPENSES.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, may retain up to 4 percent of the amounts made available for each fiscal year to carry out this subsection to pay administrative expenses incurred in carrying out this subsection.

''(c) RESEARCH CONSORTIA.—

''(1) IN GENERAL.—The Secretary may designate not more than 2 research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b) .

''(2) SELECTION.—The consortia shall be selected on a competitive basis by the Cooperative State Research, Education, and Extension Service.

''(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

''(A) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103));

''(B) a private research institution;

''(C) a State agency;

''(D) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

''(E) an agency of the Department of Agriculture;

''(F) a research center of the National Aeronautics and Space Administration, the Department of Energy, or any other Federal agency;

''(G) an agricultural business or organization with demonstrated expertise in areas covered by this section; and

''(H) a representative of the private sector with demonstrated expertise in the areas.

''(4) RESERVATION OF FUNDING.—If the Secretary designates 1 or 2 consortia, the Secretary shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

''(d) STANDARDS FOR MEASURING CARBON AND OTHER GREENHOUSE GAS CONTENT.—

''(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary shall convene a conference of key scientific experts on carbon sequestration from various sectors (including the government, academic, and private sectors) to—

''(A) discuss and establish benchmark standards for measuring the carbon content of soils and plants (including trees) and net emissions of other greenhouse gases;

''(B) propose techniques and modeling approaches for measuring carbon content with a level of precision that is agreed on by the participants in the conference; and

''(C) evaluate results of analyses on baseline, permanence, and leakage issues.

''(2) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the conference.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2002 through 2006.

''(2) ALLOCATION.—

''(A) IN GENERAL.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Education, and Extension Service.

''(B) ADMINISTRATIVE EXPENSES.—The Secretary may retain up to 4 percent of the amounts made available for each fiscal year to carry out this section to pay administrative expenses incurred in carrying out this section.

''SEC. 388K. DEMONSTRATION PROJECTS AND OUTREACH.

''(a) DEMONSTRATION PROJECTS.—

''(1) DEVELOPMENT OF MONITORING PROGRAMS.—

''(A) IN GENERAL.—The Secretary, in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

''(B) BENCHMARK LEVELS OF PRECISION.—The Secretary shall administer programs developed under subparagraph (A) in a manner that achieves, to the maximum extent practicable, benchmark levels of precision in the measurement, in a cost-effective manner, of benefits and changes described in subparagraph (A).

''(2) PROJECTS.—

''(A) IN GENERAL.—The Secretary shall establish a program under which the monitoring programs developed under paragraph (1) are used in projects to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

''(i) changes in organic carbon content and other carbon pools in soils and plants (including trees); and

''(ii) net changes in emissions of other greenhouse gases.

''(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and the permanence of sequestration.

''(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in consultation with interested local jurisdictions and State agricultural and conservation organizations.

''(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 388J(b) until benchmark measurement and assessment standards are established under section 388J(d).

''(b) OUTREACH.—

''(1) IN GENERAL.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices that increase sequestration of carbon and reduce emission of other greenhouse gases.

''(2) PROJECT RESULTS.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall provide for the dissemination to farmers, ranchers, private forest landowners, and appropriate State agencies in each State of information concerning—

''(A) the results of demonstration projects under subsection (a)(2); and

''(B) the manner in which the methods demonstrated in the projects might be applicable to the operations of the farmers and ranchers.

''(3) POLICY OUTREACH.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall disseminate information on the connection between global climate change mitigation strategies and agriculture and forestry, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(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) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).''.

SEC. 903. BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000.

(a) FUNDING.—The Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) in section 307, by striking subsection (f);

(2) by redesignating section 310 as section 311; and

(3) by inserting after section 309 the following:

''SEC. 310. FUNDING.

''(a) 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.

''(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this title the funds transferred under subsection (a), without further appropriation.''.

(b) TERMINATION OF AUTHORITY.—Section 311 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) (as redesignated by subsection (a)) is amended by striking ''December 31, 2005'' and inserting ''September 30, 2006''.

SEC. 904. RURAL ELECTRIFICATION ACT OF 1936.

Title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) (as amended by section 661) is amended by adding at the end the following:

''SEC. 21. FINANCIAL AND TECHNICAL ASSISTANCE FOR RENEWABLE ENERGY PROJECTS.

''(a) DEFINITION OF RENEWABLE ENERGY.—In this section, the term 'renewable energy' means energy derived from a wind, solar, biomass, geothermal, or hydrogen source.

''(b) LOANS, LOAN GUARANTEES, AND GRANTS.—The Secretary shall make loans, loan guarantees, and grants to rural electric cooperatives and other rural electric utilities to promote the development of economically and environmentally sustainable renewable energy projects to serve the needs of rural communities or for rural economic development.

''(c) INTEREST RATE.—A loan made or guaranteed under subsection (b) shall bear interest at a rate not exceeding 4 percent.

''(d) USE OF FUNDS.—

''(1) GRANTS.—A recipient of a grant under subsection (a) may use the grant funds to pay up to 75 percent of the cost of an economic feasibility study or technical assistance for a renewable energy project.

''(2) LOANS.—If a renewable energy project is determined to be economically feasible, a recipient of a loan or loan guarantee under subsection (a) may use the loan funds to pay a percentage of the cost of the project determined by the Secretary.

''(e) FUNDING.—

''(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, 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 section $9,000,000, 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 section the funds transferred under paragraph (1), without further appropriation.

''(3) LOAN AND INTEREST SUBSIDIES.—In the case of a loan or loan guarantee under subsection (a), the Secretary shall use funds under paragraph (1) to pay the cost of loan and interest subsidies necessary to carry out this section.''.

SEC. 905. CARBON SEQUESTRATION DEMONSTRATION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) greenhouse gas emissions resulting from human activity present potential risks and potential opportunities for agricultural and forestry production;

(2) there is a need to identify cost-effective methods that can be used in the agricultural and forestry sectors to reduce the threat of climate change;

(3) deforestation and other land use changes account for approximately 1,600,000,000 of the 7,900,000,000 metric tons of the average annual worldwide quantity of carbon emitted during the 1990s;

(4) ocean and terrestrial systems each sequestered approximately 2,300,000,000 metric tons of carbon annually, resulting in a sequestration of 60 percent of the annual human-induced emissions of carbon during the 1990s;

(5) there are opportunities for increasing the quantity of carbon that can be stored in terrestrial systems through improved, human-induced agricultural and forestry practices;

(6) increasing the carbon content of soil helps to reduce erosion, reduce flooding, minimize the effects of drought, prevent nutrients and pesticides from washing into water bodies, and contribute to water infiltration, air and water holding capacity, and good seed germination and plant growth;

(7) tree planting and wetland restoration could play a major role in sequestering carbon and reducing greenhouse gas concentrations in the atmosphere;

(8) nitrogen management is a cost-effective method of addressing nutrient overenrichment in the estuaries of the United States and of reducing emissions of nitrous oxide;

(9) animal feed and waste management can be cost-effective methods to address water quality issues and reduce emissions of methane; and

(10) there is a need to—

(A) demonstrate that carbon sequestration in soils, plants, and forests and reductions in greenhouse gas emissions through nitrogen and animal feed and waste management can be measured and verified; and

(B) develop and refine quantification, verification, and auditing methodologies for carbon sequestration and greenhouse gas

emission reductions on a project by project basis.

(b) 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. CARBON SEQUESTRATION DEMONSTRATION PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project that is likely to result in—

''(A) demonstrable reductions in net emissions of greenhouse gases; or

''(B) demonstrable net increases in the quantity of carbon sequestered in soils and forests.

''(2) ENVIRONMENTAL TRADE.—The term 'environmental trade' means a transaction between an emitter of a greenhouse gas and an agricultural producer or farmer-owned cooperative under which the emitter pays to the agricultural producer or farmer-owned cooperative a fee to sequester carbon or otherwise reduce emissions of greenhouse gases.

''(3) PANEL.—The term 'panel' means the panel of experts established under subsection (b)(4)(A).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting in consultation with—

''(A) the Under Secretary of Agriculture for Natural Resources and Environment;

''(B) the Under Secretary of Agriculture for Research, Education, and Economics;

''(C) the Chief Economist of the Department; and

''(D) the panel.

''(b) DEMONSTRATION PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a program to provide grants, on a competitive, cost-shared basis, to agricultural producers, nonindustrial private forest owners and farmer-owned cooperatives to assist in paying the costs incurred in measuring, estimating, monitoring, verifying, auditing, and testing methodologies involved in environmental trades (including costs incurred in employing certified independent third persons to carry out those activities).

''(2) CONDITIONS FOR RECEIPT OF GRANT.—As a condition of the acceptance of a grant under paragraph (1), an agricultural producer, nonindustrial forest owner and farmer-owned coopertves shall—

''(A) establish a carbon and greenhouse gas monitoring, verification, and reporting system that meets such requirements as the Secretary shall prescribe; and

''(B) under the system and through the use of an independent third party for any necessary monitoring, verifying, reporting, and auditing, measure and report to the Secretary the quantity of carbon sequestered, or the quantity of greenhouse gas emissions reduced, as a result of the conduct of an eligible project.

''(3) CRITERIA FOR AWARD OF GRANT.—

''(A) IN GENERAL.—In awarding a grant for an eligible project under paragraph (1), the Secretary shall take into consideration—

''(i) the likelihood of the eligible project in succeeding in achieving greenhouse gas emissions reductions and net carbon sequestration increases; and

''(ii) the usefulness of the information to be obtained from the eligible project in determining how best to quantify, monitor, and verify sequestered carbon or reductions in greenhouse gas emissions.

''(B) 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;

''(ii) is designed to achieve long-term sequestration of carbon or long-term reductions in greenhouse gas emissions;

''(iii) is designed to address concerns concerning leakage;

''(iv) provides certain other 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; or

''(v) does not involve—

''(I) the reforestation of land that has been deforested since 1990; or

''(II) the conversion of native grassland.

''(4) PANEL.—

''(A) IN GENERAL.—The Secretary shall establish a panel to provide advice and recommendations to the Secretary with respect to criteria for awarding grants under this subsection.

''(B) COMPOSITION.—The panel shall be composed of the following representatives, to be appointed by the Secretary:

''(i) Experts from each of—

''(I) the Department;

''(II) the Environmental Protection Agency; and

''(III) the Department of Energy.

''(ii) Experts from nongovernmental and academic entities.

''(5) PAYMENT OF GRANT FUNDS.—The Secretary shall provide a grant awarded under this section in such number of installments as is necessary to ensure proper implementation of an eligible project.

''(c) METHODOLOGY GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a program to provide grants to determine the best methodologies for estimating and measuring increases or decreases in—

''(A) agricultural greenhouse gas emissions; and

''(B) the quantity of carbon sequestered in soils, forests, and trees.

''(2) ELIGIBLE RECIPIENTS.—The Secretary shall award a grant under paragraph (1), on a competitive basis, to a college or university, or other research institution, that seeks to demonstrate the viability of a methodology described in paragraph (1).

''(d) DISSEMINATION OF INFORMATION.—As soon as practicable after the date of enactment of this section, the Secretary shall establish an Internet site through which agricultural, nonindustrial private forest owners and farmer-owned cooperatives, producers may obtain information concerning—

''(1) potential environmental trades; and

''(2) activities of the Secretary under this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2002 through 2006, of which $1,000,000 for each of fiscal years 2002 through 2006 shall be made available to carry out farmer-owned cooperative carbon environmental trade pilot projects in accordance with this section.''.

SA 2547. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 321, strike line 15 and all that follows through page 328, line 6, and insert the following:

SEC. 262. KLAMATH BASIN.

(a) DEFINITIONS.—In this section:

(1) TASK FORCE.—The term ''Task Force'' means the Klamath Basin Interagency Task Force established under subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) INTERAGENCY TASK FORCE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Agriculture 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 Natural Resources Conservation Service;

(B) the Farm Services Agency;

(C) the United States Fish and Wildlife Service;

(D) the Bureau of Reclamation;

(E) the National Marine Fisheries Service;

(F) the Council on Environmental Quality;

(G) the Bureau of Indian Affairs;

(H) the Federal Energy Regulatory Commission;

(I) the Environmental Protection Agency; and

(J) 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) development of a coordinated Federal effort for the management of water resources throughout the Klamath Basin;

(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 subsection (b)(3).

(5) GRANT PROGRAM.—The Task Force shall establish a grant program (including appropriate cost-share, monitoring, and enforcement requirements) under which the Secretary of Agriculture, Secretary of the Interior, or Secretary of Commerce may enter into 1 or more agreements or contracts with non-Federal entities, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25

U.S.C. 450b)), environmental organizations, and water districts in the Klamath Basin to carry out the purposes described in subsection (b)(3).

(c) PLAN.—

(1) DEVELOPMENT.—

(A) DRAFT PLAN.—Not later than 180 days after the date of enactment of this Act, 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).

(B) 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 (A).

(2) MATTERS TO BE CONSIDERED.—In developing the plan under paragraph (1), the Task Force shall consider—

(A) the purchase of water conservation easements;

(B) purchase of agricultural land from willing sellers, with priority given to land that will enhance 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 on the Tule Lake National Wildlife Refuge, the Lower Klamath National Wildlife Refuge, and the Upper Klamath Lake National Wildlife Refuge;

(H) fish screening and water metering;

(I) other activities in the Basin that may significantly affect water resources in the Basin, as determined by the Task Force; and

(J) other matters that the Task Force considers appropriate.

(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; and

(2) provide appropriate opportunities for public participation.

(e) FUNDING.—

(1) IN GENERAL.—To carry out the purposes and activities 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, Yurok, Hoopa, 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) OTHER FUNDS.—The funds made available under subparagraphs (A) and (B) of 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).

(3) EXPIRATION OF AUTHORITY TO OBLIGATE FUNDS.—The Secretary may not obligate funds made available under this paragraph after September 30, 2006.

(4) UNUSED FUNDING.—Any funds made available for a fiscal year under paragraph (1) that are not obligated by April 1 of the fiscal year 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.).

(f) SAVINGS PROVISION.—Nothing in this section regarding the Klamath Basin affects any right or obligation of any party under any treaty or any 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.

SA 2548. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. . SALE OF INVENTORY OWNED BY THE COMMODITY CREDIT CORPORATION.

Notwithstanding any other provisions of law the Commodity Credit Corporation, where practicable, shall utilize private sector entities to sell inventory to which the Corporation holds title.

SA 2549. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PREVENTING AGROTERRORISM.

(a) ENHANCED PENALTIES FOR ANIMAL AND PLANT ENTERPRISE TERRORISM.—Section 43 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''5 years''; and

(2) in subsection (b)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following new paragraph (2):

''(2) EXPLOSIVES OR ARSON.—Whoever in the course of a violation of subsection (a) maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used by the animal or plant enterprise shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.''; and

(C) in paragraph (3), as redesignated, by striking ''under this title and'' and all that follows through the period and inserting ''under this title, imprisoned for life or for any term of years, or sentenced to death.''.

(b) NATIONAL AGROTERRORISM INCIDENT CLEARINGHOUSE.—

(1) IN GENERAL.—The Director shall establish and maintain a national clearinghouse for information on incidents of crime and terrorism—

(A) committed against or directed at any animal or plant enterprise;

(B) committed against or directed at any commercial activity because of the perceived impact or effect of such commercial activity on the environment; or

(C) committed against or directed at any person because of such person's perceived connection with or support of any enterprise or activity described in subparagraph (A) or (B).

(2) CLEARINGHOUSE.—The clearinghouse established under subsection (a) shall—

(A) accept, collect, and maintain information on incidents described in paragraph (1) that is submitted to the clearinghouse by Federal, State, and local law enforcement agencies, by law enforcement agencies of foreign countries, and by victims of such incidents;

(B) collate and index such information for purposes of cross-referencing; and

(C) upon request from a Federal, State, or local law enforcement agency, or from a law enforcement agency of a foreign country, provide such information to assist in the investigation of an incident described in paragraph (1).

(3) SCOPE OF INFORMATION.—The information maintained by the clearinghouse for each incident shall, to the extent practicable, include—

(A) the date, time, and place of the incident;

(B) details of the incident;

(C) any available information on suspects or perpetrators of the incident; and

(D) any other relevant information.

(4) DESIGN OF CLEARINGHOUSE.—The clearinghouse shall be designed for maximum ease of use by participating law enforcement agencies.

(5) PUBLICITY.—The Director shall publicize the clearinghouse to law enforcement agencies.

(6) RESOURCES.—In establishing and maintaining the clearinghouse, the Director may—

(A) through the Attorney General, utilize the resources of any other department or agency of the Federal Government; and

(B) accept assistance and information from private organizations or individuals.

(7) COORDINATION.—The Director shall carry out the Director's responsibilities under this subsection in cooperation with the Director of the Bureau of Alcohol, Tobacco, and Firearms.

(8) DEFINITIONS.—In this subsection—

(A) the term ''animal or plant enterprise'' has the same meaning as in section 43 of title 18, United States Code; and

(B) the term ''Director'' means the Director of the Federal Bureau of Investigation.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2002 through 2007 such sums as are necessary to carry out this subsection.

SA 2550. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Title II add the following:

SEC. . GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a national grassroots water protection program to more effectively use onsite technical assistance capabilities of each State rural water association that, as of the date enactment of the Farm Security Act of 2001, 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 fiscal year.''.

SA 2551. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 14 through 17 and insert the following:

''to forgo obtaining the loan for the loan commodity in return for payments under this section.'';

(2) by striking subsection (c) and inserting the following:

''(c) LOAN PAYMENT RATE.—

''(1) IN GENERAL.—Subject to paragraph (2), for purposes of this section, the loan payment rate shall be the amount by which—

''(A) the loan rate established under section 132 for the loan commodity; exceeds

''(B) the rate at which a loan for the commodity may be repaid under section 134.

''(2) PRE-HARVEST ELECTION.—

''(A) IN GENERAL.—During the period beginning on the first day of the applicable marketing year and ending prior to harvest of a loan commodity, the producer may elect to have the loan payment rate for the loan commodity on a farm under paragraph (1) established at the then-applicable rate for the loan commodity.

''(B) SINGLE ELECTION.—The producers on a farm shall have 1 opportunity each marketing year for each loan commodity on a farm to make an irrevocable election under subparagraph (A).

''(C) LIMITATION.—The election described in subparagraph (A) may be made shall apply to not more than 50 percent of the expected production of a loan commodity on a farm, as determined by the Secretary.

''(D) TIMING OF PAYMENT.—Producers on a farm that make a pre-harvest election under this paragraph shall receive the loan payment applicable to the quantity of the loan commodity subject to the election only after—

''(i) the quantity of the loan commodity on the farm is harvested; and

''(ii) sufficient documentation regarding the quantity of the loan commodity harvested on the farm has been provided to the Secretary.''; and

(3) by striking subsections (e) and (f) and inserting the following:

SA 2552. Mr. CRAPO (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 248, strike lines 9 and all that follows through page 249 line 15 and insert the following:

''(b) EXCEPTIONS.—For states in which the Governor has elected not to participate in the program, acreage under this program shall be available for enrollment under the conditions of subchapter B of chapter 1.''

''(c) ENROLLMENT OF ELIGIBLE LAND.—

''(1) CRP ACREAGE LIMIT.—The Secretary shall enroll in the program not more than 1,100,000 acres, which shall count against the number of acres enrolled in the conservation reserve program under section 1231(d).

''(2) TIMING.—To the maximum extent practicable, an enrollment under paragraph (1) shall occur during the enrollment period for the conservation reserve program.

''(3) PRIORITY IN ENROLLMENT.—In enrolling eligible land in the program, the Secretary shall give priority to land with associated water or water rights that—

''(A) could be used to significantly advance the goals of Federal, State, Tribal and local fish, wildlife, and plant conservation plans, including—

''(i) plans that address multiple endangered species, sensitive species, or threatened species; or

''(ii) agreements entered into, or conservation plans submitted, under section 6 or 10(a)(2)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1535, 1529(a)(2)(A)), respectively; or

''(B) would benefit fish, wildlife, or plants of 1 or more refuges within the National Wildlife Refuge System.

''(4) NONPARTICIPATING STATES.—In the case of a State that elects not to participate in the program, the Secretary shall give, to applications from landowners in the State to enroll land in the conservation reserve program under subchapter B of chapter 1, priority that is equal to the priority given under paragraph (3) to applications from landowners in States participating in the program.

''(5) ENROLLMENT AUTHORITY.—The priority''.

SA 2553. Mr. CRAPO (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 215.

SA 2554. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 249, strike line 14 and insert the following:

''(4) NONPARTICIPATING STATES.—In the case of a State that elects not to participate in the program—

''(A) the Secretary shall give, to applications from landowners in the State to enroll land in the conservation reserve program under subchapter B of chapter 1, priority that is equal to the priority given under paragraph (3) to applications from landowners in States participating in the program; and

''(B) notwithstanding paragraph (1), landowners in the State may enroll in the conservation reserve program under subchapter B of chapter 1 such acreage as the landowners in the State would have enrolled in the program if the State had elected to participate in the program.

''(5) ENROLLMENT AUTHORITY.—The priority''.

SA 2555. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 132 and insert the following:

SEC. 132. DAIRY COUNTER-CYCLICAL SAVINGS ACCOUNTS.

Subtitle B of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7211 et seq.) is amended by adding at the end the following:

''SEC. 119. DAIRY COUNTER-CYCLICAL SAVINGS ACCOUNTS.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED GROSS REVENUE.—The term 'adjusted gross revenue' means 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—

''(A) milk regardless of the utilization of the milk for the applicable year; or

''(B)(i) milk regardless of the utilization of the milk for the applicable year; and

''(ii) other agricultural commodities (including livestock but excluding tobacco) on a farm or ranch.

''(3) AVERAGE ADJUSTED GROSS 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—

''(i) milk regardless of the utilization of the milk for the applicable year; or

''(ii) milk regardless of the utilization of the milk for the applicable year and other agricultural commodities (including livestock but excluding tobacco) on a farm or ranch;

''(B) has a substantial beneficial interest in the production of the milk and other agricultural commodities on the farm of the producer;

''(C)(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 $20,000 in average adjusted gross revenue for each of the preceding 5 taxable years;

''(ii) is a limited resource farmer or rancher, as determined by the Secretary; or

''(iii) in the case of a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, has at least $20,000 in estimated income from all agricultural enterprises for the applicable year, as determined by the Secretary.

''(b) ESTABLISHMENT.—A producer may establish a dairy counter-cyclical savings account in the name of the producer in a bank or financial institution selected by the producer and approved by the Secretary.

''(c) DAIRY ACCOUNT CAPITALIZATION PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall in fiscal year 2002 provide a capitalization payment to the account of an eligible producer—

''(A) in the same manner as supplemental payments for dairy producers were administered by the Secretary pursuant to section 805 of Pub. L. 106–387;

''(B) for the average of the production of the producer for the years 1998, 1999, and 2000, not to exceed 39,000 cwt. for a year; and

''(C) at the same per unit rate as provided by the Secretary in section 805 of Pub. L. 106–387.

''(2) LIMITATION.—Capitalization payments under this subsection shall not exceed $500,000,000 in fiscal year 2002, and shall not be made available in subsequent fiscal years.

''(3) A capitalization payment under this subsection may only be provided to an account of a producer in a bank or savings institution approved by the Secretary.

''(d) CONTENT OF ACCOUNT.—A dairy counter-cyclical savings account shall consist—

''(1) of contributions of the producer;

''(2) for fiscal year 2002, the amount of the capitalization fund for which the producer is eligible, as determined by the Secretary; and

''(2) for fiscal years 2003–2005, matching contributions of the Secretary.

''(e) PRODUCER CONTRIBUTIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), a producer may deposit such amounts in the account of the producer as the producer considers appropriate.

''(2) MAXIMUM ACCOUNT BALANCE.—The balance of an account of a producer may not exceed 150 percent of the average adjusted gross revenue of the producer.

''(f) MATCHING CONTRIBUTIONS.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Secretary shall provide to the account of the producer a matching contribution that is equal to, and may not exceed, the amount deposited by the producer into the account.

''(2) MAXIMUM CONTRIBUTIONS FOR ALL PRODUCERS.—The total amount of matching contributions that may be provided by the Secretary for all producers under this subsection in addition to the capitalization payments under subsection (c) shall not exceed $1,400,000,000 during the period covering fiscal years 2003 through 2005.

''(3) DATE FOR MATCHING CONTRIBUTIONS.—The Secretary shall provide the matching contributions for an applicable year required for a producer under paragraph (1) as of the date that a majority of the covered commodities grown by the producer are harvested.

''(g) 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.

''(h) 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.

''(i) WITHDRAWAL.—

''(1) IN GENERAL.—Subject to paragraph (2), a producer may withdraw funds from the account if the estimated adjusted gross revenue of the producer for the applicable year is less than the average adjusted gross revenue of the producer.

''(2) RETIREMENT.—A producer that ceases to be actively engaged in farming, as determined by the Secretary—

''(A) may withdraw the full balance from, and close, the account; and

''(B) may not establish another account.

''(j) FUNDING.—From the funds of the Commodity Credit Corporation, the Secretary shall make available—

''(1) $500,000,000 under subsection (c) for the capitalization payments in fiscal year 2002; and

''(2) $1,400,000,000 for matching contributions under subsection (f)(2)(A) for the period covering fiscal years 2003–2005.''.

SA 2556. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

SEC. ____. ANIMAL DRUGS.

(a) SHORT TITLE.—This section may be cited as the ''Minor Use and Minor Species Animal Health Act of 2001''.

(b) FINDINGS.—Congress makes the following findings:

(1) There is a severe shortage of approved new animal drugs for use in minor species.

(2) There is a severe shortage of approved new animal drugs for treating animal diseases and conditions that occur infrequently or in limited geographic areas.

(3) Because of the small market shares, low-profit margins involved, and capital investment required, it is generally not economically feasible for new animal drug sponsors to pursue approvals for these species, diseases, and conditions.

(4) Because the populations for which such new animal drugs are intended may be small and conditions of animal management may vary widely, it is often difficult to design and conduct studies to establish drug safety and effectiveness under traditional new animal drug approval processes.

(5) It is in the public interest and in the interest of animal welfare to provide for special procedures to allow the lawful use and marketing of certain new animal drugs for minor species and minor uses that take into account these special circumstances and that ensure that such drugs do not endanger animal or public health.

(6) Exclusive marketing rights and tax credits for clinical testing expenses have helped encourage the development of ''orphan'' drugs for human use, and comparable incentives should encourage the development of new animal drugs for minor species and minor uses.

(c) DEFINITIONS.—Section 201 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(kk) The term 'major species' means cattle, horses, swine, chickens, turkeys, dogs, and cats, except that the Secretary may revise this definition by regulation.

''(ll) The term 'minor species' means animals other than humans that are not major species.

''(mm) The term 'minor use' means the intended use of a drug in a major species for an indication that occurs infrequently or in limited geographical areas.''.

(d) THREE-YEAR EXCLUSIVITY FOR MINOR USE AND MINOR SPECIES APPROVALS.—Section 512(c)(2)(F) (ii), (iii), and (v) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''(other than bioequivalence or residue studies)'' and inserting ''(other than bioequivalence studies or final residue depletion studies, except final residue depletion studies for minor uses or minor species)'' every place it appears.

(e) SCOPE OF REVIEW FOR MINOR USE AND MINOR SPECIES APPLICATIONS.— Section 512(d) of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph:

''(5) In reviewing an application that proposes a change to add an intended use for a minor use or a minor species to an approved new animal drug application, the Secretary shall reevaluate only the relevant information in the approved application to determine whether the application for the minor use or minor species can be approved. A decision to approve the application for the minor use or minor species is not, implicitly or explicitly, a reaffirmation of the approval of the original application.''.

(f) MINOR USE AND MINOR SPECIES NEW ANIMAL DRUGS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''Subchapter F—New Animal Drugs For Minor Use And Minor Species

''SEC. 571. CONDITIONAL APPROVAL OF NEW ANIMAL DRUGS FOR MINOR USE AND MINOR SPECIES.

''(a)(1) Except as provided in paragraph (3) of this section, any person may file with the Secretary an application for conditional approval of a new animal drug intended for a minor use or a minor species. Such an application may not be a supplement to an application approved under section 512. Such application must comply in all respects with the provisions of section 512 of this Act except sections 512(b)(2), 512(c)(1), 512(c)(2), 512(c)(3), 512(d)(1), 512(e), 512(h), and 512(n) unless otherwise stated in this section, and any additional provisions of this section.

''(2) The applicant shall submit to the Secretary as part of an application for the conditional approval of a new animal drug—

''(A) all information necessary to meet the requirements of section 512(b)(1) except section 512(b)(1)(A);

''(B) full reports of investigations which have been made to show whether or not such drug is safe and there is a reasonable expectation of effectiveness for use;

''(C) data for establishing a conditional dose;

''(D) projections of expected need and the justification for that expectation based on the best information available;

''(E) information regarding the quantity of drug expected to be distributed on an annual basis to meet the expected need; and

''(F) a commitment that the applicant will conduct additional investigations to meet the requirements for the full demonstration of effectiveness under section 512(d)(1)(E) within 5 years.

''(3) A person may not file an application under paragraph (1) if without adequate justification—

''(A) the person has previously filed an application for conditional approval under paragraph (1) for the same drug, conditions of use, and dosage form whether or not subsequently conditionally approved by the Secretary under subsection (b), or

''(B) the person obtained the application, or data or other information contained therein, directly or indirectly from the person who filed for conditional approval under paragraph (1) for the same drug and conditions of use whether or not subsequently conditionally approved by the Secretary under subsection (b).

''(b) Within 180 days after the filing of an application pursuant to subsection (a), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

''(1) issue an order, effective for one year, conditionally approving the application if the Secretary finds that none of the grounds for denying conditional approval, specified in subsection (c) of this section applies, or

''(2) give the applicant notice of an opportunity for an informal hearing on the question whether such application can be conditionally approved.

''(c) If the Secretary finds, after giving the applicant notice and an opportunity for an informal hearing, that—

''(1) any of the provisions of section 512(d)(1) (A) through (D) or (F) through (I) are applicable;

''(2) the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such drug, is insufficient to show that there is a reasonable expectation that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

''(3) another person has received approval under section 512 for a drug with the same active ingredient or ingredients, the same conditions of use, and the same dosage form and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended;

the Secretary shall issue an order refusing to conditionally approve the application.

If, after such notice and opportunity for an informal hearing, the Secretary finds that paragraphs (1) through (3) do not apply, the Secretary shall issue an order conditionally approving the application effective for one year. Any order issued under this subsection refusing to conditionally approve an application shall state the findings upon which it is based.

''(d) A conditional approval under this section is effective for a 1-year period and is thereafter renewable by the Secretary annually for up to 4 additional 1-year terms. A conditional approval shall be in effect for no more than 5 years from the date of approval under subsection (b)(1) or (c) of this section unless extended as provided for in subsection (h) of this section. The following shall also apply:

''(1) No later than 90 days from the end of the 1-year period for which the original or renewed conditional approval is effective, the applicant may submit a request to renew a conditional approval for an additional 1-year term.

''(2) If the renewal request is submitted no later than 90 days from the end of the 1-year period, a conditional approval shall be deemed renewed at the end of the 1-year period, or at the end of an additional 90-day extension when deemed necessary to complete review of an application, unless the Secretary makes a written determination before the expiration of the 1-year period or the 90-day extension that—

''(A) the request fails to contain sufficient information to show that—

''(i) the applicant is making sufficient progress toward meeting approval requirements under section 512(d)(1)(E), and is likely to be able to fulfill those requirements and obtain an approval under section 512 before the expiration of the 5-year maximum term of the conditional approval;

''(ii) the quantity of the drug that has been distributed is consistent with the intended use, unless there is adequate explanation that ensures that the drug is only used for its intended purpose; or

''(iii) no other drug with the same active ingredient or ingredients, for the same conditions of use, and dosage form has received approval under section 512, or if such a drug has been approved, that the holder of the approved application is unable to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended; or

''(B) 1 or more of the conditions of section 512(e)(1) (A) through (B) and (D) through (F) are met.

''(3) If the Secretary makes a timely written determination that a conditional approval should not be renewed, or the applicant fails to submit a timely renewal request, the Secretary shall issue an order refusing to renew the conditional approval, and such conditional approval shall be deemed withdrawn and no longer in effect. The Secretary shall thereafter provide an opportunity for an informal hearing to the applicant on the issue whether the conditional approval shall be reinstated.

''(e)(1) The Secretary shall issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that another person has received approval under section 512 for a drug with the same active ingredient or ingredients, the same conditions of use, and dosage form, and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended.

''(2) The Secretary shall, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that—

''(A) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable; or

''(B) on the basis of new information before the Secretary with respect to such drug, evaluated together with the evidence available to the Secretary when the application was conditionally approved, that there is not a reasonable expectation that such drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

''(3) The Secretary may also, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that any of the provisions of section 512(e)(2) are applicable.

''(f)(1) The label and labeling of a new animal drug with a conditional approval under this section shall—

''(A) bear the statement, 'conditionally approved by FDA pending a full demonstration of effectiveness under application [number]'; and

''(B) contain such other information as prescribed by the Secretary.

''(2) An intended use that is the subject of a conditional approval under this section shall not be included in the same product label with any intended use approved under section 512.

''(g) A conditionally-approved new animal drug application may not be amended or supplemented to add indications for use.

''(h) 180 days prior to the termination date established under subsection (d)(1) of this section, a sponsor shall have submitted all the information necessary to support a complete new animal drug application in accordance with section 512(b)(1) or the conditional approval issued under this section is no longer in effect. Upon receipt of this information, the Secretary shall either—

''(1) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in section 512(d)(1) applies, or

''(2) give the sponsor an opportunity for a hearing before the Secretary under section 512(d) on the question whether such application can be approved.

Upon issuance of an order approving the application, product labeling and administrative records of approval shall be modified accordingly. If the Secretary has not issued an order under section 512(c) approving such application prior to the termination date established under subsection (d)(1) of this section, the conditional approval issued under this section is no longer in effect unless the Secretary grants an extension of an additional 180-day period so that the Secretary can complete review of the application. The decision to grant an extension is committed to Agency discretion and not subject to judicial review.

''(i) The decision of the Secretary under subsection (c), (d), or (e) of this section, refusing or withdrawing conditional approval of an application shall constitute final agency action subject to judicial review.

''SEC. 572. INDEX OF LEGALLY-MARKETED UNAPPROVED NEW ANIMAL DRUGS FOR MINOR SPECIES.

''(a) The Secretary shall establish an index of unapproved minor species new animal drugs that may be lawfully marketed for use in minor species. The index shall be limited to—

''(1) new animal drugs intended for use in a minor species for which there is a reasonable certainty that the animal or edible products from the animal will not be consumed by humans, and

''(2) new animal drugs intended for use in an early life stage of a food-producing minor species where human food safety can be demonstrated in accordance with the standard of section 512(d) by showing that—

''(A) there is no significant likelihood that harmful residues will be present in the animal presented as food for humans as a result of treatment at the early life stage;

''(B) there is no significant likelihood that harmful residues will be present in the animal presented as food for food-producing animals as a result of treatment at the early life stage; and

''(C) there are no concerns about the use of the drug at later life stages because a tolerance and regulatory method to test for the drug at later life stages are available or there is no practical use for the drug in later life stages.

''(b) Any person intending to file a request under this section shall be entitled to one or more conferences to discuss the requirements for indexing a new animal drug.

''(c)(1) Any person may submit a request to the Secretary for a determination whether a new animal drug may be eligible for inclusion in the index. Such a request shall include—

''(A) information regarding the need for the new animal drug, the species for which the new animal drug is intended, the proposed intended use and conditions of use, and anticipated annual distribution;

''(B) information to support the conclusion that the proposed use meets the conditions of subsection (a)(1) or (a)(2) of this section;

''(C) information regarding the components and composition of the new animal drug;

''(D) a description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug;

''(E) an environmental assessment or information to support a categorical exclusion from the requirement to prepare an environmental assessment;

''(F) information sufficient to support the conclusion that the proposed use of the new animal drug does not present a threat to the safety of individuals exposed to the new animal drug through its manufacture or use; and

''(G) such other information as the Secretary may deem necessary to make this eligibility determination.

''(2) Within 90 days after the submission of a request for a determination of eligibility for indexing based on subsection (a)(1) of this section, or 180 days for a request submitted based on subsection (a)(2) of this section, the Secretary shall grant or deny the request, and notify the person who requested such determination of the Secretary's decision. The Secretary shall grant the request if the Secretary finds that—

''(A) no new animal drug, including the same active ingredient or any salt or ester thereof is approved or conditionally approved in the same dosage form for the same intended use;

''(B) the proposed use does not raise concerns related to safety; and

''(C) the person requesting the determination has established appropriate specifications for the manufacture and control of the new animal drug and has demonstrated an understanding of the requirements of current good manufacturing practices.

If the Secretary denies the request, the Secretary shall thereafter provide due notice and an opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

''(d)(1) With respect to a new animal drug for which the Secretary has made a determination of eligibility under subsection (b), the person who made such a request may ask that the Secretary add the new animal drug to the index established under subsection (a). The request for addition to the index shall include—

''(A) a copy of the Secretary's determination of eligibility issued under subsection (b);

''(B) a written report that meets the requirements in subsection (d)(2) of this section;

''(C) a proposed index entry;

''(D) facsimile labeling;

''(E) anticipated annual distribution of the new animal drug;

''(F) a written commitment to manufacture the new animal drug according to current good manufacturing practices;

''(G) a written commitment to label, distribute, and promote the new animal drug only in accordance with the index entry;

''(H) upon specific request of the Secretary, information submitted to the expert panel described in paragraph (3); and

''(I) any additional requirements that the Secretary may prescribe by general regulation or specific order.

''(2) The report required in paragraph (1) shall—

''(A) be authored by a qualified expert panel;

''(B) include an evaluation of all available target animal safety and effectiveness information, including anecdotal information;

''(C) state the expert panel's opinion regarding whether the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks, taking into account the harm being caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question;

''(D) include information upon which labeling can be written; and

''(E) include a recommendation regarding whether the new animal drug should be limited to use under the professional supervision of a licensed veterinarian.

''(3) A qualified expert panel, as used in this section, is a panel that—

''(A) is composed of experts qualified by scientific training and experience to evaluate the target animal safety and effectiveness of the new animal drug under consideration;

''(B) operates external to FDA; and

''(C) is not subject to the Federal Advisory Committee Act, 5 U.S.C. App.2.

The Secretary shall define the criteria for selection of a qualified expert panel and the procedures for the operation of the panel by regulation.

''(4) Within 180 days after the receipt of a request for listing a new animal drug in the index, the Secretary shall grant or deny the request. The Secretary shall grant the request if the request for indexing continues to meet the eligibility criteria in subsection (a) and the Secretary finds, on the basis of the report of the qualified expert panel and other information available to the Secretary, that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks, taking into account the harm caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question. If the Secretary denies the request, the Secretary shall thereafter provide due notice and the opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

''(e)(1) The index established under subsection (a) shall include the following information for each listed drug—

''(A) the name and address of the person who holds the index listing;

''(B) the name of the drug and the intended use and conditions of use for which it is being indexed;

''(C) product labeling; and

''(D) conditions and any limitations that the Secretary deems necessary regarding use of the drug.

''(2) The Secretary shall publish the index, and revise it periodically.

''(3) The Secretary may establish by regulation a process for reporting changes in the conditions of manufacturing or labeling of indexed products.

''(f)(1) If the Secretary finds, after due notice to the person who requested the index listing and an opportunity for an informal conference, that—

''(A) the expert panel failed to meet the requirements as set forth by the Secretary by regulation;

''(B) on the basis of new information before the Secretary, evaluated together with the evidence available to the Secretary when the new animal drug was listed in the index, the benefits of using the new animal drug for the indexed use do not outweigh its risks;

''(C) the conditions of subsection (c)(2) of this section are no longer satisfied;

''(D) the manufacture of the new animal drug is not in accordance with current good manufacturing practices;

''(E) the labeling, distribution, or promotion of the new animal drug is not in accordance with the index entry;

''(F) the conditions and limitations of use associated with the index listing have not been followed; or

''(G) the request for indexing contains any untrue statement of material fact,

the Secretary shall remove the new animal drug from the index. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

''(2) If the Secretary finds that there is a reasonable probability that the use of the drug would adversely affect the health of humans or other animals, the Secretary may—

''(A) suspend the listing of such drug immediately;

''(B) give the person listed in the index prompt notice of the Secretary's action; and

''(C) afford that person the opportunity for an informal conference.

The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

''(g) For purposes of indexing new animal drugs under this section, to the extent consistent with the public health, the Secretary shall promulgate regulations for exempting from the operation of section 512 minor species new animal drugs and animal feeds bearing or containing new animal drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of minor species animal drugs. Such regulations may, at the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning such exemption upon the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such article, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of such article, as the Secretary finds will enable the Secretary to evaluate the safety and effectiveness of such article in the event of the filing of a request for an index listing pursuant to this section.

''(h) The labeling of a new animal drug that is the subject of an index listing shall state, prominently and conspicuously—

''(1) 'NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra-label use is prohibited.';

''(2) except in the case of new animal drugs indexed for use in an early life stage of a

food producing animal, 'This product is not to be used in animals intended for use as food for humans or other animals.'; and

''(3) such other information as may be prescribed by the Secretary in the index listing.

''(i)(1) In the case of any new animal drug for which an index listing pursuant to subsection (a) is in effect, the person who has an index listing shall establish and maintain such records, and make such reports to the Secretary, of data relating to experience, and other data or information, received or otherwise obtained by such person with respect to such drug, or with respect to animal feeds bearing or containing such drug, as the Secretary may by general regulation, or by order with respect to such listing, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (f). Such regulation or order shall provide, where the Secretary deems it to be appropriate, for the examination, upon request, by the persons to whom such regulation or order is applicable, of similar information received or otherwise obtained by the Secretary.

''(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(j)(1) Safety and effectiveness data and information which has been submitted in support of a request for a new animal drug to be indexed under this section and which has not been previously disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

''(A) if no work is being or will be undertaken to have the drug indexed in accordance with the request,

''(B) if the Secretary has determined that such drug cannot be indexed and all legal appeals have been exhausted,

''(C) if the indexing of such drug is terminated and all legal appeals have been exhausted, or

''(D) if the Secretary has determined that such drug is not a new animal drug.

''(2) Any request for data and information pursuant to paragraph (1) shall include a verified statement by the person making the request that any data or information received under such paragraph shall not be disclosed by such person to any other person—

''(A) for the purpose of, or as part of a plan, scheme, or device for, obtaining the right to make, use, or market, or making, using, or marketing, outside the United States, the drug identified in the request for indexing; and

''(B) without obtaining from any person to whom the data and information are disclosed an identical verified statement, a copy of which is to be provided by such person to the Secretary, which meets the requirements of this paragraph.

''SEC. 573. DESIGNATED NEW ANIMAL DRUGS FOR MINOR USE OR MINOR SPECIES.

''(a) DESIGNATION.—

''(1) The manufacturer or the sponsor of a new animal drug for a minor use or use in a minor species may request that the Secretary declare that drug a 'designated new animal drug'. A request for designation of a new animal drug shall be made before the submission of an application under section 512(b) or section 571 for the new animal drug.

''(2) The Secretary may declare a new animal drug a 'designated new animal drug' for an intended use if—

''(A) it is intended for a minor use or use in a minor species; and

''(B) a new animal drug containing the same active ingredient, including any salt or ester of the active ingredient, for the same intended use, in the same species, and in the same dosage form is not approved under section 512 or section 571 or designated for the intended use at the time the request is made.

''(3) Regarding the termination of a designation—

''(A) the sponsor of a new animal drug shall notify the Secretary of any decision to discontinue active pursuit of approval under section 512 or 571 of an application for a designated new animal drug. The Secretary shall terminate the designation upon such notification;

''(B) the Secretary may also terminate designation if the Secretary independently determines that the sponsor is not actively pursuing approval under section 512 or 571 with due diligence;

''(C) the sponsor of an approved designated new animal drug shall notify the Secretary of any discontinuance of the manufacture of such new animal drug at least one year before discontinuance. The Secretary shall terminate the designation upon such notification; and

''(D) the designation shall terminate upon the expiration of any applicable exclusivity period under subsection (c).

''(4) Notice respecting the designation or termination of designation of a new animal drug shall be made available to the public.

''(b) GRANTS AND CONTRACTS FOR DEVELOPMENT OF DESIGNATED NEW ANIMAL DRUGS.—

''(1) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified safety and effectiveness testing expenses and manufacturing expenses incurred in connection with the development of designated new animal drugs.

''(2) For purposes of paragraph (1) of this section—

''(A) The term 'qualified safety and effectiveness testing' means testing—

''(i) which occurs after the date such new animal drug is designated under this section and before the date on which an application with respect to such drug is submitted under section 512 or 571; and

''(ii) which is carried out under an investigational exemption under section 512(j).

''(B) The term 'manufacturing expenses' means expenses incurred in developing processes and procedures associated with manufacture of the designated new animal drug which occur after the new animal drug is designated under this section and before the date on which an application with respect to such new animal drug is submitted under section 512 or section 571.

''(3) There is authorized to be appropriated to carry out this subsection $1,000,000 for the fiscal year following publication of final implementing regulations, $2,000,000 for the subsequent fiscal year and such sums as may be necessary for each fiscal year thereafter.

''(c) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

''(1) Except as provided in subsection (c)(2), if the Secretary—

''(A) approves or conditionally approves an application for a designated new animal drug, and no active ingredient (including any salt or ester of the active ingredient) of that designated new animal drug has been approved or conditionally approved previously, the Secretary may not approve or conditionally approve another application submitted for a new animal drug with the same active ingredient and intended use as the designated new animal drug for another applicant before the expiration of ten years from the date of the approval or conditional approval of the application.

''(B) approves or conditionally approves an application for a designated new animal drug, and an active ingredient (including an ester or salt of the active ingredient) of that designated new animal drug has been approved or conditionally approved previously, the Secretary may not approve or conditionally approve another application submitted for a new animal drug with the same active ingredient and intended use as the designated new animal drug for another applicant before the expiration of seven years from the date of approval or conditional approval of the application.

''(2) If an application filed pursuant to section 512 or section 571 is approved for a designated new animal drug, the Secretary may, during the 10-year or 7-year exclusivity period beginning on the date of the application approval or conditional approval, approve or conditionally approve another application under section 512 or section 571 for such drug for such minor use or minor species for another applicant if—

''(A) the Secretary finds, after providing the holder of such an approved application notice and opportunity for the submission of views, that in the granted exclusivity period the holder of the approved application cannot assure the availability of sufficient quantities of the drug to meet the needs for which the drug was designated; or

''(B) such holder provides written consent to the Secretary for the approval or conditional approval of other applications before the expiration of such exclusivity period.''.

(g) CONFORMING AMENDMENTS.—

(1) Section 201(u) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''512'' and inserting ''512, 571''.

(2) Section 201(v) of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following after paragraph (2): ''Provided that any drug intended for minor use or use in a minor species that is not the subject of a final regulation published by the Secretary through notice and comment rulemaking finding that the criteria of paragraphs (1) and (2) or of section 108 of Public Law 90–399 have been met is a new animal drug.''.

(3) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''512(a)(4)(C), 512(j), (l) or (m)'' and inserting ''512(a)(4)(C), 512 (j), (l) or (m), 572(i).''

(4) Section 301(j) of the Federal Food, Drug, and Cosmetic Act is amended by deleting ''520'' and inserting ''520, 571, 572, 573.''

(5) Section 502 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new subsection:

''(u) If it is a new animal drug—

''(1) that is conditionally approved under section 571 and its labeling does not conform with the approved application or section 571(f), or that is not conditionally approved under section 571 and its label bears the statement set forth in section 571(f)(1)(A); or

''(2) that is indexed under section 572 and its labeling does not conform with the index listing under section 572(e) or 572(h), or that has not been indexed under section 572 and its label bears the statement set forth in section 572(h).''.

(6) Section 503(f) of the Federal Food, Drug, and Cosmetic Act is amended by—

(A) in paragraph (1)(A)(ii) by striking ''512'' and inserting ''512, a conditionally-approved application under section 571, or an index listing under section 572''; and

(B) in paragraph (3) by striking ''section 512'' and inserting ''section 512, 571, or 572''.

(7) Section 504(a)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''512(b)'' and inserting ''512(b), a conditionally-approved application filed pursuant to section 571, or an index listing pursuant to section 572''.

(8) Sections 504(a)(2)(B) and 504(b) of the Federal Food, Drug, and Cosmetic Act are amended by striking ''512(i)'' each place it appears and inserting ''512(i), or the index listing pursuant to section 572(e)''.

(9) Section 512(a) of the Federal Food, Drug, and Cosmetic Act is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for purposes of section 501(a)(5) and section 402(a)(2)(C)(ii) unless—

''(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such approved application;

''(B) there is in effect a conditional approval of an application filed pursuant to section 571 with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such conditionally-approved application; or

''(C) there is in effect an index listing pursuant to section 572 with respect to such use or intended use of such drug in a minor species, and such drug, its labeling, and such use conform to such index listing.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

''(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for purposes of section 501(a)(6) unless—

''(A) there is in effect—

''(i) an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such approved application;

''(ii) a conditional approval of an application filed pursuant to section 571 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such conditionally-approved application; or

''(iii) an index listing pursuant to section 572 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such index listing; and

''(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed.''.

(10) Section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''under paragraph (1) or a request for an investigational exemption under subsection (j)'' and inserting ''under paragraph (1), section 571, or a request for an investigational exemption under subsection (j)''.

(11) Section 512(d)(4) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''have previously been separately approved'' and inserting ''have previously been separately approved pursuant to an application submitted under section 512(b)(1)''.

(12) Section 512(f) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (d), (e), or (m)'' and inserting ''subsection (d), (e), or (m), or section 571 (c), (d), or (e)''.

(13) Section 512(g) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''this section'' and inserting ''this section, or section 571''.

(14) Section 512(i) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)'' and inserting ''subsection (b) or section 571'' and by inserting ''or upon failure to renew a conditional approval under section 571'' after ''or upon its suspension''.

(15) Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)'' and inserting ''subsection (b) or section 571''.

(16) Section 512(m)(1)(C) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''applicable regulations published pursuant to subsection (i)'' and inserting ''applicable regulations published pursuant to subsection (i) or for indexed new animal drugs in accordance with the index listing published pursuant to section 572(e)(2) and the labeling requirements set forth in section 572(h)''.

(17) Section 512(m)(3) of the Federal Food, Drug, and Cosmetic Act is amended by inserting ''or an index listing pursuant to section 572(e)'' after ''subsection (i)''.

(18) Section 512(p)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1) or section 571(a)''.

(19) Section 512(p)(2) of the Federal Food, Drug, and Cosmetic Act is amended by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1) or section 571(a)''.

(h) REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations to implement section 572 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 36 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations to implement section 573 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments; provided that these timeframes shall be extended by 12 months for each fiscal year in which the funds authorized to be appropriated by this Act are not in fact appropriated. The Secretary shall implement section 571 of the Federal Food, Drug, and Cosmetic Act (as added by this Act) on the date of enactment of this Act and subsequently publish any needed implementing regulations.

(i) OFFICE.—The Secretary of Health and Human Services shall establish within the Center of Veterinary Medicine (of the Food and Drug Administration), an Office of Minor Use and Minor Species Animal Drug Development that reports directly to the Director of the Center for Veterinary Medicine. This office shall be responsible for overseeing the development and legal marketing of new animal drugs for minor uses and minor species. There is authorized to be appropriated to carry out this subsection $1,200,000 for fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.

SA 2557. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 87, strike line 15 and all that follows through page 113 and insert the following:

CHAPTER 3—PEANUTS

SEC. 151. PEANUT PROGRAM.

(a) IN GENERAL.—Subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251 et seq.) is amended by adding at the end the following:

''CHAPTER 3—PEANUTS

''SEC. 158A. DEFINITIONS.

''In this chapter:

''(1) COUNTER-CYCLICAL PAYMENT.—The term 'counter-cyclical payment' means a payment made to peanut producers on a farm under section 158D.

''(2) DIRECT PAYMENT.—The term 'direct payment' means a payment made to peanut producers on a farm under section 158C.

''(3) EFFECTIVE PRICE.—The term 'effective price' means the price calculated by the Secretary under section 158D for peanuts to determine whether counter cyclical payments are required to be made under section 158D for a crop year.

''(4) HISTORICAL PEANUT PRODUCERS ON A FARM.—The term 'historical peanut producers on a farm' means the peanut producers on a farm in the United States that produced or were prevented from planting peanuts during any of the 1998 through 2001 crop years.

''(5) INCOME PROTECTION PRICE.—The term 'income protection price' means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

''(6) PAYMENT ACRES.—The term 'payment acres' means 85 percent of the peanut acres on a farm, as established under section 158B, on which direct payments and counter-cyclical payments are made.

''(7) PEANUT ACRES.—The term 'peanut acres' means the number of acres assigned to a particular farm for historical peanut producers on a farm pursuant to section 158B(b).

''(8) PAYMENT YIELD.—The term 'payment yield' means the yield assigned to farm by historical peanut producers on the farm pursuant to section 158B(b).

''(9) PEANUT PRODUCER.—The term 'peanut producer' means an owner, operator, landlord, tenant, or sharecropper that—

''(A) shares in the risk of producing a crop of peanuts in the United States; and

''(B) is entitled to share in the crop available for marketing from the farm or would have shared in the crop had the crop been produced.

''SEC. 158b. PAYMENT YIELDS, PEANUT ACRES, AND PAYMENT ACRES FOR FARMS.

''(a) PAYMENT YIELDS AND PAYMENT ACRES—

''(1) AVERAGE YIELD—

''(A) IN GENERAL.— The Secretary shall determine, for each historical peanut producer, the average yield for peanuts on all farms of the historical peanut producer for the 1998 through 2001 crop years, excluding any crop year during which the producers did not produce peanuts.

''(B) ASSIGNED YIELDS.—If for any of the crop years referred to in subparagraph (A) in which peanuts were planted on a farm by the

historical peanut producer, the historical peanut producer has satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105–277), the Secretary shall assign to the historical peanut producer a yield for the farm for the crop year equal to 65 percent of the average yield for peanuts for the previous 5 crop years.

''(2) ACREAGE AVERAGE.—Except as provided in paragraph (3), the Secretary shall determine, for the historical peanut producer, the 4-year average of—

''(A) acreage planted to peanuts on all farms for harvest during the 1998 through 2001 crop years; and

''(B) any acreage that was prevented from being planted to peanuts during the crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historical peanut producer, as determined by the Secretary.

''(3) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in paragraph (2) is located is declared a disaster area during 1 or more of the 4 crop years described in paragraph (2), for purposes of determining the 4-year average acreage for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 of the crop years during which a disaster is declared—

''(A) the State average of acreage actually planted to peanuts; or

''(B) the average of acreage for the historical peanut producer determined by the Secretary under paragraph (2).

''(4) TIME FOR DETERMINATIONS; FACTORS—

''(A) TIMING.—The Secretary shall make the determinations required by this subsection not later than 90 days after the date of enactment of this section.

''(B) FACTORS.—In making the determinations, the Secretary shall take into account changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

''(b) ASSIGNMENT OF YIELD AND ACRES TO FARMS.—

''(1) ASSIGNMENT BY HISTORICAL PEANUT PRODUCERS.—The Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the historical peanut producer to cropland on a farm.

''(2) PAYMENT YIELD.—The average of all of the yields assigned by historical peanut producers to a farm shall be considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

''(3) PEANUT ACRES.—Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered to be the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

''(c) ELECTION.—Not later than 180 days after the date of enactment of this section, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b).

''(d) PAYMENT ACRES.—The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

''(e) PREVENTION OF EXCESS PEANUT ACRES.—

''(1) REQUIRED REDUCTION.—If the total of the peanut acres for a farm, together with the acreage described in paragraph (3), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for 1 or more covered commodities for the farm as necessary so that the total of the peanut acres and acreage described in paragraph (3) does not exceed the actual cropland acreage of the farm.

''(2) SELECTION OF ACRES.—The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or contract acreage against which the reduction will be made.

''(3) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include—

''(A) any contract acreage for the farm under subtitle B;

''(B) any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.); and

''(C) any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

''(3) DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm, as determined by the Secretary.

''SEC. 158C. DIRECT PAYMENTS FOR PEANUTS.

''(a) IN GENERAL.—For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments to peanut producers on a farm with peanut acres under section 158B and a payment yield for peanuts under section 158B.

''(b) PAYMENT RATE.—The payment rate used to make direct payments with respect to peanuts for a fiscal year shall be equal to $0.018 per pound.

''(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the peanut producers on a farm for peanuts for a fiscal year shall be equal to the product obtained by multiplying—

''(1) the payment rate specified in subsection (b);

''(2) the payment acres on the farm; by

''(3) the payment yield for the farm.

''(d) TIME FOR PAYMENT.—

''(1) IN GENERAL.—The Secretary shall make direct payments—

''(A) in the case of the 2002 fiscal year, during the period beginning December 1, 2001, and ending September 30, 2002; and

''(B) in the case of each of the 2003 through 2006 fiscal years, not later than September 30 of the fiscal year.

''(2) ADVANCE PAYMENTS.—

''(A) IN GENERAL.—At the option of the peanut producers on a farm, the Secretary shall pay 50 percent of the direct payment for a fiscal year for the producers on the farm on a date selected by the peanut producers on the farm.

''(B) SELECTED DATE.—The selected date for a fiscal year shall be on or after December 1 of the fiscal year.

''(C) SUBSEQUENT FISCAL YEARS.—The peanut producers on a farm may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

''(3) REPAYMENT OF ADVANCE PAYMENTS.—If any peanut producer on a farm that receives an advance direct payment for a fiscal year ceases to be eligible for a direct payment before the date the direct payment would have been made by the Secretary under paragraph (1), the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment.

''SEC. 158D. COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.

''(a) IN GENERAL.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

''(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

''(1) the greater of—

''(A) the national average market price received by peanut producers during the 12-month marketing year for peanuts, as determined by the Secretary; or

''(B) the national average loan rate for a marketing assistance loan for peanuts under section 158G in effect for the 12-month marketing year for peanuts under this chapter; and

''(2) the payment rate in effect for peanuts under section 158C for the purpose of making direct payments with respect to peanuts.

''(c) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $550 per ton.

''(d) PAYMENT AMOUNT.—The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product obtained by multiplying—

''(1) the payment rate specified in subsection (e);

''(2) the payment acres on the farm; by

''(3) the payment yield for the farm.

''(e) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between—

''(1) the income protection price for peanuts; and

''(2) the effective price determined under subsection (b) for peanuts.

''(f) TIME FOR PAYMENTS—

''(1) IN GENERAL.—The Secretary shall make counter-cyclical payments to peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

''(2) PARTIAL PAYMENT—

''(A) IN GENERAL.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the projected counter-cyclical payment to be made under this section for a crop of peanuts on completion of the first 6 months of the marketing year for the crop, as determined by the Secretary.

''(B) REPAYMENT.—The peanut producers on a farm shall repay to the Secretary the amount, if any, by which the payment received by producers on the farm (including any partial payments) exceeds the counter-cyclical payment the producers on the farm are eligible for under this section.

''SEC. 158E. PRODUCER AGREEMENTS.

''(a) COMPLIANCE WITH CERTAIN REQUIREMENTS—

''(1) REQUIREMENTS.—Before the peanut producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the peanut producers on the farm shall agree during the fiscal year or crop year, respectively, for which the payments are received, in exchange for the payments—

''(A) to comply with applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

''(B) to comply with applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

''(C) to comply with the planting flexibility requirements of section 158F; and

''(D) to use a quantity of the land on the farm equal to the peanut acres, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary.

''(2) COMPLIANCE.—The Secretary may promulgate such regulations as the Secretary considers necessary to ensure peanut producer compliance with paragraph (1).

''(b) FORECLOSURE—

''(1) IN GENERAL.—The Secretary shall not require the peanut producers on a farm to repay a direct payment or counter-cyclical payment if a foreclosure has occurred with respect to the farm and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

''(2) COMPLIANCE WITH REQUIREMENTS—

''(A) IN GENERAL.—This subsection shall not void the responsibilities of the peanut producers on a farm under subsection (a) if the peanut producers on the farm continue or resume operation, or control, of the farm.

''(B) APPLICABLE REQUIREMENTS.—On the resumption of operation or control over the farm by the peanut producers on the farm, the requirements of subsection (a) in effect on the date of the foreclosure shall apply.

''(c) TRANSFER OR CHANGE OF INTEREST IN FARM—

''(1) TERMINATION.—Except as provided in paragraph (5), a transfer of (or change in) the interest of the peanut producers on a farm in peanut acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

''(2) EFFECTIVE DATE.—The termination takes effect on the date of the transfer or change.

''(3) TRANSFER OF PAYMENT BASE AND YIELD.—The Secretary shall not impose any restriction on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1).

''(4) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of subsection (a), as determined by the Secretary.

''(5) EXCEPTION.—If a peanut producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

''(d) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

''(e) TENANTS AND SHARECROPPERS.—In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

''(f) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis.

''SEC. 158F. PLANTING FLEXIBILITY.

''(a) PERMITTING CROPS.—Subject to subsection (b), any commodity or crop may be planted on peanut acres on a farm.

''(b) LIMITATIONS AND EXCEPTIONS REGARDING CERTAIN COMMODITIES—

''(1) LIMITATIONS.—The planting of the following agricultural commodities shall be prohibited on peanut acres:

''(A) Fruits.

''(B) Vegetables (other than lentils, mung beans, and dry peas).

''(C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice.

''(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of an agricultural commodity specified in paragraph (1)—

''(A) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted:

''(B) on a farm that the Secretary determines has a history of planting agricultural commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity; or

''(C) by the plant producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in paragraph (1), except that—

''(i) the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers on the farm during the 1996 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

''(ii) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity.

''SEC. 158G. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

''(a) NONRECOURSE LOANS AVAILABLE—

''(1) AVAILABILITY.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

''(2) TERMS AND CONDITIONS.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

''(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

''(4) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this section, the Secretary shall make loans to peanut producers on a farm that would be eligible to obtain a marketing assistance loan but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 158E.

''(5) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained by the option of the peanut producers on a farm through—

''(A) a designated marketing association of peanut producers that is approved by the Secretary;

''(B) the Farm Service Agency; or

''(C) a loan servicing agent approved by the Secretary.

''(b) LOAN RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $400 per ton.

''(c) TERM OF LOAN—

''(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

''(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

''(d) REPAYMENT RATE.—The Secretary shall permit peanut producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

''(1) the loan rate established for peanuts under subsection (b), plus interest (as determined by the Secretary); or

''(2) a rate that the Secretary determines will—

''(A) minimize potential loan forfeitures;

''(B) minimize the accumulation of stocks of peanuts by the Federal Government;

''(C) minimize the cost incurred by the Federal Government in storing peanuts; and

''(D) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

''(e) LOAN DEFICIENCY PAYMENTS—

''(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

''(2) AMOUNT.—A loan deficiency payment under this subsection shall be obtained by multiplying—

''(A) the loan payment rate determined under paragraph (3) for peanuts; by

''(B) the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on the farm obtain a loan under subsection (a).

''(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

''(A) the loan rate established under subsection (b); exceeds

''(B) the rate at which a loan may be repaid under subsection (d).

''(4) TIME FOR PAYMENT.—The Secretary shall make a payment under this subsection to the peanut producers on a farm with respect to a quantity of peanuts as of the earlier of—

''(A) the date on which the peanut producers on the farm marketed or otherwise lost beneficial interest in the peanuts, as determined by the Secretary; or

''(B) the date the peanut producers on the farm request the payment.

''(f) COMPLIANCE WITH CONSERVATION REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the peanut producers on a farm shall comply during the term of the loan with—

''(1) applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

''(2) applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

''(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of the agreements or payment of the expenses for other commodities.

''SEC. 158H. QUALITY IMPROVEMENT.

''(a) OFFICIAL INSPECTION.—

''(1) MANDATORY INSPECTION.—All peanuts placed under a marketing assistance loan under section 158G shall be officially inspected and graded by a Federal or State inspector.

''(2) OPTIONAL INSPECTION.—Peanuts not placed under a marketing assistance loan may be graded at the option of the peanut producers on a farm.

''(b) TERMINATION OF PEANUT ADMINISTATIVE COMMITTEE.—The Peanut Administrative Committee established under Marketing Agreement No. 1436, which regulates the quality of domestically produced peanuts under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is terminated.

''(c) ESTABLISHMENT OF PEANUT STANDARDS BOARD.—

''(1) IN GENERAL.—The Secretary shall establish a Peanut Standards Board for the purpose of assisting in the establishment of quality standards with respect to peanuts.

''(2) COMPOSITION.—The Secretary shall appoint members to the Board that, to the maximum extent practicable, reflect all regions and segments of the peanut industry.

''(3) DUTIES.—The Board shall assist the Secretary in establishing quality standards for peanuts.

''(d) CROPS.—This section shall apply beginning with the 2002 crop of peanuts.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter heading of chapter 2 of subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. prec. 7271) is amended by striking ''PEANUTS AND''.

(2) Section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) is repealed.

SEC. 152. TERMINATION OF MARKETING QUOTAS FOR PEANUTS AND COMPENSATION TO PEANUT QUOTA HOLDERS.

(a) REPEAL OF MARKETING QUOTAS FOR PEANUTS.—Effective beginning with the 2002 crop of peanuts, part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) is repealed.

(b) COMPENSATION OF QUOTA HOLDERS.—

(1) DEFINITIONS.—In this subsection:

(A) PEANUT QUOTA HOLDER.—

(i) IN GENERAL.—The term ''peanut quota holder'' means a person or entity that owns a farm that—

(I) held a peanut quota established for the farm for the 2001 crop of peanuts under part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) (as in effect before the amendment made by subsection (a));

(II) if there was not such a quota established for the farm for the 2001 crop of peanuts, would be eligible to have such a quota established for the farm for the 2002 crop of peanuts, in the absence of the amendment made by subsection (a); or

(III) is otherwise a farm that was eligible for such a quota as of the effective date of the amendments made by this section.

(ii) SEED OR EXPERIMENTAL PURPOSES.—The Secretary shall apply the definition of ''peanut quota holder'' without regard to temporary leases, transfer, or quotas for seed or experimental purposes.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(2) CONTRACTS.—The Secretary shall offer to enter into a contract with peanut quota holders for the purpose of providing compensation for the lost value of quota as a result of the repeal of the marketing quota program for peanuts under the amendment made by subsection (a).

(3) PAYMENT PERIOD.—Under a contract, the Secretary shall make payments to an eligible peanut quota holder for each of fiscal years 2002 through 2005.

(4) TIME FOR PAYMENT.—The payments required under the contracts shall be provided in 5 equal installments not later than September 30 of each of fiscal years 2002 through 2005.

(5) PAYMENT AMOUNT.—The amount of the payment for a fiscal year to a peanut quota holder under a contract shall be equal to the product obtained by multiplying—

(A) $0.1025 per pound; by

(B) the actual farm poundage quota (excluding any quantity for seed and experimental peanuts) established for the farm of a peanut quota holder under section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)) (as in effect prior to the amendment made by subsection (a)) for the 2001 marketing year.

(6) ASSIGNMENT OF PAYMENTS.—

(A) IN GENERAL.—the provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to the payments made to peanut quota holders under the contracts.

(B) NOTICE.—the peanut quota holder making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this subsection.

(c) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking ''peanuts,''.

(2) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(A) in the first sentence of subsection (a), by striking ''peanuts,''; and

(B) in the first sentence of subsection (b), by striking ''peanuts''.

(3) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(A) in the first sentence of subsection (a)—

(i) by striking ''peanuts,'' each place it appears;

(ii) by inserting ''and'' after ''from producers,''; and

(iii) by striking ''for producers, all'' and all that follows through the period at the end of the sentence and inserting ''for producers.''; and

(B) in subsection (b), by striking ''peanuts,''.

''(4) EMINENT DOMAIN.—Section 378(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(c)) is amended in the first sentence—

(A) by striking ''cotton,'' and inserting ''cotton and''; and

(B) by striking ''and peanuts,''.

(d) CROPS.—This section and the amendments made by this section apply beginning with the 2002 crop of peanuts.

Subtitle D—Administration

SEC. 161. ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.

Section 161 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281) is amended by adding at the end the following:

''(e) ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.—If the Secretary determines that expenditures under subtitles A through D that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)), as in effect on the date of enactment of this subsection, will exceed the allowable levels for any applicable reporting period, the Secretary may make adjustments in the amount of the expenditures to ensure that the expenditures do not exceed, but are not less than, the allowable levels.''

SEC. 162. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

Section 171 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7301) is amended—

(1) by striking ''2002'' each place it appears and inserting ''2006''; and

(2) in subsection (a)(1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively.

SEC. 163. COMMODITY PURCHASES.

Section 191 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7331 et. seq.) is amended to read as follows:

''SEC. 191. COMMODITY PURCHASES.

''(a) IN GENERAL.—To purchase agricultural commodities under this section, the Secretary shall use funds of the Commodity Credit Corporation in an amount equal to—

''(1) for each of fiscal years 2002, and 2003, $130,000,000, of which not less than $100,000,000 shall be used for the purchase of specialty crops;

''(2) for fiscal year 2004, $150,000,000, of which not less than $120,000,000 shall be used for the purchase of specialty crops;

''(3) for fiscal year 2005, $170,000,000, of which not less than $140,000,000 shall be used for the purchase of specialty crops;

''(4) for fiscal year 2006, $200,000,000, of which not less than $170,000,000 shall be used for the purchase of specialty crops; and

''(5) for fiscal year 2007, $0.

''(b) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

''(c) PURCHASES BY DEPARTMENT OF DEFENSE FOR SCHOOL LUNCH PROGRAM.—The Secretary shall provide not less than $50,000,000 for each fiscal year of the funds made available under subsection (a) to the Secretary of Defense to purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) in a manner prescribed by the Secretary of Agriculture.

''(d) PURCHASES FOR EMERGENCY FOOD ASSISTANCE PROGRAM.—The Secretary shall use not less than $40,000,000 for each fiscal year of the funds made available under subsection (a) to purchase agricultural commodities for distribution under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).''

SEC. 164. HARD WHITE WHEAT INCENTIVE PAYMENTS.

Section 193 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1508) is amended to read as follows:

''SEC. 193. HARD WHITE WHEAT INCENTIVE PAYMENTS.

''(a) IN GENERAL.—For the period of crop years 2003 through 2005, the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to provide incentive payments to producers of hard white wheat to ensure that hard white wheat, produced on a total of not more than 2,000,000 acres, meets minimum quality standards established by the Secretary.

''(b) APPLICATION.—The amounts payable to producers in the form of payments under this section shall be determined through the submission of bids by producers in such manner as the Secretary may prescribe.

''(c) DEMAND FOR WHEAT.—To be eligible to obtain a payment under this section, a producer shall demonstrate to the Secretary the availability of buyers and end-users for the wheat that is covered by the payment.''

SEC. 165. PAYMENT LIMITATIONS.

Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) LIMITATION ON DIRECT AND COUNTER-CYCLICAL PAYMENTS.—The total amount of

direct payments and counter-cyclical payments to a person during any fiscal year may not exceed $100,000, with a separate limitation for—

''(A) all contract commodities; and

''(B) peanuts.

''(2) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.) for 1 or more loan commodities during any crop year may not exceed $150,000 with a separate limitation for—

''(A) all contract commodities;

''(B) wool and mohair;

''(C) honey; and

''(D) peanuts.

''(3) DESCRIPTION OF PAYMENTS SUBJECT TO LIMITATION.—The payments referred to in paragraph (2) are the following:

''(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity or peanuts under section 132 or 158G(d) of that Act, respectively.

''(B) Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

''(4) DEFINITIONS.—In paragraphs (1) through (3):

''(A) CONTRACT COMMODITY.—The term 'contract commodity' has the meaning given the term in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202).

''(B) COUNTER-CYCLICAL PAYMENT.—The term 'counter-cyclical payment' means a payment made under section 114 or 158D of that Act.

''(C) DIRECT PAYMENT.—The term 'direct payment' means a payment made under section 113 or 158C of that Act.

''(D) LOAN COMMODITY.—The term 'loan commodity' has the meaning given the term in section 102 of that Act.''.

SA 2558. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

SECTION . FINDINGS.

Congress finds the following:

(1) A number of young people residing in rural areas and small towns are at high risk for alcohol and substance abuse, suicide, teen pregnancy, and truancy.

(2) The Girl Scouts of the United States of America, the Boy Scouts of America, the National 4-H Council, and the National FFA Organization have proven track records of empowering youth to resist negative peer pressure, develop positive behaviors, and achieve goals.

(3) Currently, many youth in rural areas and small towns are underserved by the organizations described in paragraph (2) due to high transportation costs and lack of adequate community resources.

(4) Additional resources would enable many youth in rural areas and small towns, who wish to participate in the programs offered by the organization, to have the opportunity to do so.

SEC. . PURPOSES.

The purposes of this Act are—

(1) to support and promote the expansion of 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 increase the access of youth in rural areas and small towns to those organizations; and

(2) to encourage youth in rural areas and small towns to participate in 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 develop critical life skills and take advantage of the learning opportunities the organizations offer.

SEC. . GRANTS.

The Secretary of Agriculture, 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.

SEC. . AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2002.—There is authorized to be appropriated and there is appropriated to carry out this Act $10,000,000 for fiscal year 2002.

(b) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to carry out this Act such sums as may be necessary for fiscal year 2003 and each subsequent year.

SA 2559. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 984, line 2, strike the period at the end and insert a period and the following:

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 January 31, 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 January 31, 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 January 31, 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 January 31, 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 January 31, 2002.''.

SA 2560. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen

the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumer abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 226, strike line 1 and all that follows through page 235, line 6, and insert the following:

''(4) LARGE CONFINED LIVESTOCK FEEDING OPERATIONS.—

''(A) DEFINITION OF LARGE CONFINED LIVESTOCK FEEDING OPERATION.—In this paragraph:

''(i) IN GENERAL.—The term 'large confined livestock feeding operation' means a confined livestock feeding operation designed to confine 1,000 or more animal equivalent units (as defined by the Secretary).

''(ii) MULTIPLE LOCATIONS.—In determining the number of animal unit equivalents of operation of a producer under clause (i), the animals confined by the producer in confinement facilities at all locations (including the producer's proportionate share in any jointly owned facility) shall be counted.

''(B) NEW OR EXPANDED OPERATIONS.—A producer shall not be eligible for cost-share payments for any portion of a storage or treatment facility, or associated waste transport or transfer device, to manage manure, process wastewater, or other animal waste generated by a large confined livestock feeding operation, if the operation is a confined livestock operation that—

''(i) is established after the date of enactment of this paragraph; or

''(ii) is expanded after the date of enactment of this paragraph so as to become a large confined livestock operation.

''(C) MULTIPLE OPERATIONS.—A producer that has an interest in more than 1 large confined livestock operation shall not be eligible for more than 1 contract under this section for cost-share payments for a storage or treatment facility, or associated waste transport or transfer device, to manage manure, process wastewater, or other animal waste generated by the large confined livestock feeding operation.

''(D) FLOOD PLAIN SITING.—Cost-share payments shall not be available for structural practices for a storage or treatment facility, or associated waste transport device, to manage manure, process wastewater, or other animal waste generated by a large confined livestock operation if—

''(i) the structural practices are located in a 100-year flood plain; and

''(ii) the large confined livestock operation is a confined livestock operation that—

(I) is established after the date of enactment; or

(II) is expanded after the date of enactment.

''(e) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more practices.

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall allocate funding under the program for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year.

''(2) AMOUNT.—The allocated amount may vary according to—

''(A) the type of expertise required;

''(B) the quantity of time involved; and

''(C) other factors as determined appropriate by the Secretary.

''(3) LIMITATION.—Funding for technical assistance under the program shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

''(4) OTHER AUTHORITIES.—The receipt of technical assistance under the program shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

''(5) INCENTIVE PAYMENTS FOR TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—A producer that is eligible to receive technical assistance for a practice involving the development of a comprehensive nutrient management plan may obtain an incentive payment that can be used to obtain technical assistance associated with the development of any component of the comprehensive nutrient management plan.

''(B) PURPOSE.—The purpose of the payment shall be to provide a producer the option of obtaining technical assistance for developing any component of a comprehensive nutrient management plan from a certified provider.

''(C) PAYMENT.—The incentive payment shall be—

''(i) in addition to cost-share or incentive payments that a producer would otherwise receive for structural practices and land management practices;

''(ii) used only to procure technical assistance from a certified provider that is necessary to develop any component of a comprehensive nutrient management plan; and

''(iii) in an amount determined appropriate by the Secretary, taking into account—

''(I) the extent and complexity of the technical assistance provided;

''(II) the costs that the Secretary would have incurred in providing the technical assistance; and

''(III) the costs incurred by the private provider in providing the technical assistance.

''(D) ELIGIBLE PRACTICES.—The Secretary may determine, on a case by case basis, whether the development of a comprehensive nutrient management plan is eligible for an incentive payment under this paragraph.

''(E) CERTIFICATION BY SECRETARY.—

''(i) IN GENERAL.—Only persons that have been certified by the Secretary under section 1244(f)(3) shall be eligible to provide technical assistance under this subsection.

''(ii) QUALITY ASSURANCE.—The Secretary shall ensure that certified providers are capable of providing technical assistance regarding comprehensive nutrient management in a manner that meets the specifications and guidelines of the Secretary and that meets the needs of producers under the program.

''(F) ADVANCE PAYMENT.—On the determination of the Secretary that the proposed comprehensive nutrient management of a producer is eligible for an incentive payment, the producer may receive a partial advance of the incentive payment in order to procure the services of a certified provider.

''(G) FINAL PAYMENT.—The final installment of the incentive payment shall be payable to a producer on presentation to the Secretary of documentation that is satisfactory to the Secretary and that demonstrates—

''(i) completion of the technical assistance; and

''(ii) the actual cost of the technical assistance.

''(g) MODIFICATION OR TERMINATION OF CONTRACTS.—

''(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

''(A) the producer agrees to the modification or termination; and

''(B) the Secretary determines that the modification or termination is in the public interest.

''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

''SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

''(a) IN GENERAL.—In evaluating applications for technical assistance, cost-share payments, and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

''(1) maximize environmental benefits per dollar expended; and

''(2)(A) address national conservation priorities, including—

''(i) meeting Federal, State, and local environmental purposes focused on protecting air and water quality;

''(ii) comprehensive nutrient management;

''(iii) water quality, particularly in impaired watersheds;

''(iv) soil erosion;

''(v) air quality; or

''(vi) pesticide and herbicide management or reduction;

''(B) are provided in conservation priority areas established under section 1230(c);

''(C) are provided in special projects under section 1243(f)(4) with respect to which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes; or

''(D) an innovative technology in connection with a structural practice or land management practice.

''(b) ADDITIONAL PRIORITIES FOR LIVESTOCK PRODUCERS.—In evaluating applications for technical assistance, cost-share payments, and incentive payments for livestock producers, the Secretary shall accord priority to—

''(1) applications for assistance and payments for systems and practices that avoid subjecting the livestock production operation to Federal, State, tribal, and local environmental regulatory systems while also assisting the operation to meet environmental quality criteria established by Federal, State, tribal, and local agencies; and

''(2) applications from livestock producers using managed grazing systems and other pasture- and forage-based systems.

''SEC. 1240D. DUTIES OF PRODUCERS.

''To receive technical assistance, cost-share payments, or incentive payments under the program, a producer shall agree—

''(1) to implement an environmental quality incentives program plan that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary;

''(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of the program;

''(3) on the violation of a term or condition of the contract at any time the producer has control of the land—

''(A) if the Secretary determines that the violation warrants termination of the contract—

''(i) to forfeit all rights to receive payments under the contract; and

''(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

''(B) if the Secretary determines that the violation does not warrant termination of the contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate;

''(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under the program, as determined by the Secretary;

''(5) to supply information as required by the Secretary to determine compliance with the program plan and requirements of the program; and

''(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the program plan.

''SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''(a) IN GENERAL.—To be eligible to receive technical assistance, cost-share payments, or incentive payments under the program, a producer of a livestock or agricultural operation shall submit to the Secretary for approval a plan of operations that specifies practices covered under the program, and is based on such terms and conditions, as the Secretary considers necessary to carry out the program, including a description of the practices to be implemented and the purposes to be met by the implementation of the plan.

''(b) CONFINED ANIMAL FEEDING OPERATIONS.—

''(1) IN GENERAL.—To be eligible to receive cost-share payments or incentive payments for a storage or treatment facility, or associated waste transport or transfer device, to manage manure, process wastewater, or other animal waste generated by a confined animal feeding operation, the producer or owner of the operation shall submit a comprehensive nutrient management plan for the confined animal feeding operation as part of the plan of operations submitted under subsection (a).

''(2) CONTRACT CONDITION.—Implementation of the comprehensive nutrient management plan submitted under paragraph (1) shall be a condition of the environmental quality incentives program contract.

''(c) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program and comparable conservation programs.

''SEC. 1240F. DUTIES OF THE SECRETARY.

''To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program plan by—

''(1) providing technical assistance in developing and implementing the plan;

''(2) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more practices, as appropriate;

''(3) providing the producer with information, education, and training to aid in implementation of the plan; and

''(4) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

''SEC. 1240G. LIMITATION ON PAYMENTS.

''(a) IN GENERAL.—Subject to subsection (b), the total amount of cost-share and incentive payments paid to a producer under this chapter shall not exceed—

''(1) $20,000 for any fiscal year, regardless of whether the producer has more than 1 contract under this chapter for the fiscal year;

''(2) $60,000 for a contract with a term of 3 years;

''(3) $80,000 for a contract with a term of 4 years; or

''(4) $100,000 for a contract with a term of more than 4 years.

''(b) ATTRIBUTION.—An individual or entity shall not receive, directly or indirectly, total payments from a single or multiple contracts this chapter that exceed $20,000 for any fiscal year.

''(c) EXCEPTION TO ANNUAL LIMIT.—The Secretary may exceed the limitation on the annual amount of a payment to a producer under subsection (a)(1) if the Secretary determines that a larger payment is—

''(1) essential to accomplish the land management practice or structural practice for which the payment is made to the producer; and

''(2) consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter.

''(d) VERIFICATION.—The Secretary shall identify individuals and entities that are eligible for a payment under the program using social security numbers and taxpayer identification numbers, respectively.

SA 2561. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. READJUSTMENT RESOLUTION.

(a) IN GENERAL.—If the Secretary of Agriculture makes a determination and adjustment pursuant to section 161 of the Federal Agriculture Improvement and Reform Act of 1996, no expenditures may be made under subtitle A or D of title I of that Act after the date that is 18 months after the date on which that determination is made, unless a readjustment resolution is enacted into law.

(b) READJUSTMENT RESOLUTION.—For purposes of subsection (a), the term ''readjustment resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the expenditures under subtitles A and D of title I of the Federal Agriculture Improvement and Reform Act of 1996 are reduced from _____ to _____.'', with the first blank space being filled with the expenditures relating to domestic support levels in effect on day before the introduction of the readjustment resolution and the second blank space being filled with the level of expenditures necessary for the United States to comply with the total allowable domestic support levels under the Uruguay Round Agreements.

(c) EXPEDITED PROCEDURES.—The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) apply to a readjustment resolution to the same extent as such section 151 applies to an approval resolution under that section, except that for purposes of applying such section 151—

(1) subsection (b) of this section shall be substituted for section 151(b)(2) of such Act; and

(2) any reference to an approval resolution in that section shall be treated as a reference to a readjustment resolution.

SA 2562. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 105, strike lines 15 through 25 and insert the following:

''(5) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the peanut producers on a farm through—

''(A) a designated marketing association of peanut producers that is approved by the Secretary; or

''(B) the Farm Service Agency.

''(6) POOLING.—A designated marketing association of peanut producers described in paragraph (5)(A) may pool peanuts for marketing in any manner determined appropriate by the association, including the creation of a separate pool for Valencia peanuts produced in New Mexico.

SA 2563. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 97, strike line 11 and all that follows through page 116, line 15, and insert the following:

''(C) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in subparagraph (A) is located was declared a disaster area during 1 or more of the 4 crop years described in subparagraph (A), for purposes of determining the 4-year average yield for the historical peanut producer, the historical peanut producer may elect to substitute the yield for peanuts on all farms of the peanut producer for the 1996 or 1997 crop, for not more than 1 of the crop years during which a disaster is declared.

''(2) ACREAGE AVERAGE.—Except as provided in paragraph (3), the Secretary shall determine, for the historical peanut producer, the 4-year average of—

''(A) acreage planted to peanuts on all farms for harvest during the 1998 through 2001 crop years; and

''(B) any acreage that was prevented from being planting to peanuts during the crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historical peanut producer, as determined by the Secretary.

''(3) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in paragraph (2) is located is declared a disaster area during 1 or more of the 4 crop years described in paragraph (2), for purposes of determining the 4-year average acreage for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 of the crop years during which a disaster is declared—

''(A) the State average of acreage actually planted to peanuts; or

''(B) the average of acreage for the historical peanut producer determined by the Secretary under paragraph (2).

''(4) TIME FOR DETERMINATIONS; FACTORS.—

''(A) TIMING.—The Secretary shall make the determinations required by this subsection not later than 90 days after the date of enactment of this section.

''(B) FACTORS.—In making the determinations, the Secretary shall take into account

changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

''(b) ASSIGNMENT OF YIELD AND ACRES TO FARMS.—

''(1) ASSIGNMENT BY HISTORICAL PEANUT PRODUCERS.—For each of the 2002 and 2003 crop years, the Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the historical peanut producer to cropland on a farm.

''(2) PAYMENT YIELD.—The average of all of the yields assigned by historical peanut producers to a farm shall be considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

''(3) PEANUT ACRES.—Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered to be the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

''(c) ELECTION.—Not later than 180 days after the date of enactment of this section for the 2002 crop, and not later than 180 days after January 1, 2003, for the 2003 crop, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b).

''(d) PAYMENT ACRES.—The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

''(e) PREVENTION OF EXCESS PEANUT ACRES.—

''(1) REQUIRED REDUCTION.—If the total of the peanut acres for a farm, together with the acreage described in paragraph (3), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for 1 or more covered commodities for the farm as necessary so that the total of the peanut acres and acreage described in paragraph (3) does not exceed the actual cropland acreage of the farm.

''(2) SELECTION OF ACRES.—The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or contract acreage against which the reduction will be made.

''(3) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include—

''(A) any contract acreage for the farm under subtitle B;

''(B) any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.); and

''(C) any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

''(3) DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm, as determined by the Secretary.

''SEC. 158C. DIRECT PAYMENTS FOR PEANUTS.

''(a) IN GENERAL.—For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments to peanut producers on a farm with peanut acres under section 158B and a payment yield for peanuts under section 158B.

''(b) PAYMENT RATE.—The payment rate used to make direct payments with respect to peanuts for a fiscal year shall be equal to $0.018 per pound.

''(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the peanut producers on a farm for peanuts for a fiscal year shall be equal to the product obtained by multiplying—

''(1) the payment rate specified in subsection (b);

''(2) the payment acres on the farm; by

''(3) the payment yield for the farm.

''(d) TIME FOR PAYMENT.—

''(1) IN GENERAL.—The Secretary shall make direct payments—

''(A) in the case of the 2002 fiscal year, during the period beginning December 1, 2001, and ending September 30, 2002; and

''(B) in the case of each of the 2003 through 2006 fiscal years, not later than September 30 of the fiscal year.

''(2) ADVANCE PAYMENTS.—

''(A) IN GENERAL.—At the option of the peanut producers on a farm, the Secretary shall pay 50 percent of the direct payment for a fiscal year for the producers on the farm on a date selected by the peanut producers on the farm.

''(B) SELECTED DATE.—The selected date for a fiscal year shall be on or after December 1 of the fiscal year.

''(C) SUBSEQUENT FISCAL YEARS.—The peanut producers on a farm may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

''(3) REPAYMENT OF ADVANCE PAYMENTS.—If any peanut producer on a farm that receives an advance direct payment for a fiscal year ceases to be eligible for a direct payment before the date the direct payment would have been made by the Secretary under paragraph (1), the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment.

''SEC. 158D. COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.

''(a) IN GENERAL.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

''(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

''(1) the greater of—

''(A) the national average market price received by peanut producers during the marketing season for peanuts, as determined by the Secretary; or

''(B) the national average loan rate for a marketing assistance loan for peanuts under section 158G in effect for the marketing season for peanuts under this chapter; and

''(2) the payment rate in effect for peanuts under section 158C for the purpose of making direct payments with respect to peanuts.

''(c) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $520 per ton.

''(d) PAYMENT AMOUNT.—The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product obtained by multiplying—

''(1) the payment rate specified in subsection (e);

''(2) the payment acres on the farm; by

''(3) the payment yield for the farm.

''(e) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between—

''(1) the income protection price for peanuts; and

''(2) the effective price determined under subsection (b) for peanuts.

''(f) TIME FOR PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall make counter-cyclical payments to peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

''(2) PARTIAL PAYMENT.—

''(A) IN GENERAL.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the projected counter-cyclical payment to be made under this section for a crop of peanuts on completion of the first 2 months of the marketing season for the crop, as determined by the Secretary.

''(B) REPAYMENT.—The peanut producers on a farm shall repay to the Secretary the amount, if any, by which the payment received by producers on the farm (including any partial payments) exceeds the counter-cyclical payment the producers on the farm are eligible for under this section.

''SEC. 158E. PRODUCER AGREEMENTS.

''(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

''(1) REQUIREMENTS.—Before the peanut producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the peanut producers on the farm shall agree during the fiscal year or crop year, respectively, for which the payments are received, in exchange for the payments—

''(A) to comply with applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

''(B) to comply with applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

''(C) to comply with the planting flexibility requirements of section 158F; and

''(D) to use a quantity of the land on the farm equal to the peanut acres, for an agricultural or conserving use, and not for a non-agricultural commercial or industrial use, as determined by the Secretary.

''(2) COMPLIANCE.—The Secretary may promulgate such regulations as the Secretary considers necessary to ensure peanut producer compliance with paragraph (1).

''(b) FORECLOSURE.—

''(1) IN GENERAL.—The Secretary shall not require the peanut producers on a farm to repay a direct payment or counter-cyclical payment if a foreclosure has occurred with respect to the farm and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

''(2) COMPLIANCE WITH REQUIREMENTS.—

''(A) IN GENERAL.—This subsection shall not void the responsibilities of the peanut producers on a farm under subsection (a) if the peanut producers on the farm continue or resume operation, or control, of the farm.

''(B) APPLICABLE REQUIREMENTS.—On the resumption of operation or control over the farm by the peanut producers on the farm, the requirements of subsection (a) in effect on the date of the foreclosure shall apply.

''(c) TRANSFER OR CHANGE OF INTEREST IN FARM.—

''(1) TERMINATION.—Except as provided in paragraph (5), a transfer of (or change in) the interest of the peanut producers on a farm in peanut acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

''(2) EFFECTIVE DATE.—The termination takes effect on the date of the transfer or change.

''(3) TRANSFER OF PAYMENT BASE AND YIELD.—The Secretary shall not impose any restriction on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1).

''(4) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of subsection (a), as determined by the Secretary.

''(5) EXCEPTION.—If a peanut producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

''(d) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

''(e) TENANTS AND SHARECROPPERS.—In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

''(f) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis.

''SEC. 158F. PLANTING FLEXIBILITY.

''(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on peanut acres on a farm.

''(b) LIMITATIONS AND EXCEPTIONS REGARDING CERTAIN COMMODITIES.—

''(1) LIMITATIONS.—The planting of the following agricultural commodities shall be prohibited on peanut acres:

''(A) Fruits.

''(B) Vegetables (other than lentils, mung beans, and dry peas).

''(C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice.

''(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of an agricultural commodity specified in paragraph (1)—

''(A) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted;

''(B) on a farm that the Secretary determines has a history of planting agricultural commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity; or

''(C) by the peanut producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in paragraph (1), except that—

''(i) the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers on the farm during the 1996 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

''(ii) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity.

''SEC. 158G. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

''(a) NONRECOURSE LOANS AVAILABLE.—

''(1) AVAILABILITY.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

''(2) TERMS AND CONDITIONS.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

''(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

''(4) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this section, the Secretary shall make loans to peanut producers on a farm that would be eligible to obtain a marketing assistance loan but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 158E.

''(5) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the peanut producers on a farm through—

''(A) a designated marketing association of peanut producers that is approved by the Secretary, which may own or construct necessary storage facilities;

''(B) the Farm Service Agency; or

''(C) a loan servicing agent approved by the Secretary.

''(b) LOAN RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $400 per ton.

''(c) TERM OF LOAN.—

''(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

''(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

''(d) REPAYMENT RATE.—The Secretary shall permit peanut producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

''(1) the loan rate established for peanuts under subsection (b), plus interest (as determined by the Secretary); or

''(2) a rate that the Secretary determines will—

''(A) minimize potential loan forfeitures;

''(B) minimize the accumulation of stocks of peanuts by the Federal Government;

''(C) minimize the cost incurred by the Federal Government in storing peanuts; and

''(D) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

''(e) LOAN DEFICIENCY PAYMENTS.—

''(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

''(2) AMOUNT.—A loan deficiency payment under this subsection shall be obtained by multiplying—

''(A) the loan payment rate determined under paragraph (3) for peanuts; by

''(B) the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on the farm obtain a loan under subsection (a).

''(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

''(A) the loan rate established under subsection (b); exceeds

''(B) the rate at which a loan may be repaid under subsection (d).

''(4) TIME FOR PAYMENT.—The Secretary shall make a payment under this subsection to the peanut producers on a farm with respect to a quantity of peanuts as of the earlier of—

''(A) the date on which the peanut producers on the farm marketed or otherwise lost beneficial interest in the peanuts, as determined by the Secretary; or

''(B) the date the peanut producers on the farm request the payment.

''(f) COMPLIANCE WITH CONSERVATION REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the peanut producers on a farm shall comply during the term of the loan with—

''(1) applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

''(2) applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

''(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of the agreements or payment of the expenses for other commodities.

''SEC. 158H. QUALITY IMPROVEMENT.

''(a) OFFICIAL INSPECTION.—All edible peanuts produced in the United States shall be officially inspected and graded by a Federal or State inspector.

SA 2564. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 128, line 8, strike the period at the end and insert a period and the following:

SEC. 1 . RESERVE STOCK LEVEL.

Section 301(b)(14)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(14)(C)) is amended—

(1) in clause (i), by striking ''100,000,000'' and inserting ''75,000,000''; and

(2) in clause (ii), by striking ''15 percent'' and inserting ''10 percent''.

SA 2565. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 374, line 12, strike ''more than 50 percent'' and insert the words ''40 percent or more''.

SA 2566. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 765, strike line 21 and insert the following:

SEC. 748. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

Section 604 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7642) is amended by adding at the end the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal year 2002 through 2006.''.

SA 2567. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 977, strike the period at the end of line 15 and insert a period and the following:

SEC. 10___. 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 with input, consultation, and recommendations from the Secretary of Health and Human Services and the Institute for Animal Laboratory Research within the National Academy of Sciences;

(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 or Department of Health and Human Services, or accreditation requirements of the Association for Assessment and Accreditation of Laboratory Animal Care;

(3) contain an estimate of the additional costs likely to be incurred by breeders and research facilities resulting from the additional regulatory requirements; and

(4) contain an estimate of the additional funding that the Animal and Plant Health Inspection Service would require to be able to ensure that the quality and frequency of inspections by the Department of Agriculture relating to other animals are not diminished by the increase in the number of facilities that would require inspections if the definition were amended to include rats, mice, and birds.

SA 2568. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 984, line 2, strike the period at the end and insert the following:

SEC. 10___. STUDY OF NONAMBULATORY LIVESTOCK.

The Secretary—

(1) shall investigate and submit to Congress a report on—

(A) the scope and cause of nonambulatory livestock; and

(B) the extent to which nonambulatory livestock may present handling and disposition problems during marketing; and

(2) based on the findings in the report, may promulgate regulations for the appropriate treatment, handling, and disposition of nonambulatory livestock at market agencies and dealers.

SA 2569. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 945, strike lines 6 and 7 and insert the following:

SEC. 1024. DEFINITION OF ANIMAL UNDER THE ANIMAL WELFARE ACT.

Section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g)) is amended by striking ''excludes horses not used for research purposes and'' and inserting the following: ''birds, rats of the genus Rattus, and mice of the genus Mus bred for use in research, horses not used for research purposes, and''.

SEC. 1025. PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.

SA 2570. Mr. HELMS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 10 and 11, insert the following:

''(C) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in subparagraph (A) is located was declared a disaster area during 1 or more of the 4 crop years described in subparagraph (A), for purposes of determining the 4-year average yield for the historical peanut producer, the historical peanut producer may elect to substitute the yield for peanuts on all farms of the peanut producer for the 1996 or 1997 crop, for not more than 1 of the crop years during which a disaster is declared.

On page 99, line 6, strike ''The'' and insert ''For each of the 2002 and 2003 crop years, the''.

On page 99, line 24, insert after ''section'' the following: ''for the 2002 crop, and not later than 180 days after January 1, 2003, for the 2003 crop''.

Beginning on page 103, line 24, through page 104, line 1, strike ''12-month marketing year'' and insert ''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 112, strike lines 20 through 22 and insert the following:

''(A) a designated marketing association of peanut producers that is approved by the Secretary, which may own or construct necessary storage facilities;

On page 116, strike lines 7 through 15 and insert the following:

''(a) OFFICIAL INSPECTION.—All edible peanuts produced in the United States shall be officially inspected and graded by a Federal or State inspector.

SA 2571. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, strike line 1 and insert the following:

SEC. 165. ESTIMATES OF NET FARM INCOME.

Section 194 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933) is amended to read as follows:

''SEC. 194. ESTIMATES OF NET FARM INCOME.

''In each issuance of projections of net farm income, the Secretary shall include (as determined by the Secretary)—

''(1) an estimate of the net farm income earned by commercial producers in the United States;

''(2) an estimate of the net farm income attributable to commercial producers of each of—

''(A) livestock;

''(B) loan commodities; and

''(C) agricultural commodities other than loan commodities; and

''(3) the definition of 'commercial producer' used by the Secretary in making estimates under this section.''.

SEC. 166. PAYMENT LIMITATIONS.

SA 2572. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 63, strike lines 4 through 10 and insert the following:

(h) SUBSTITUTABILITY OF SUGAR.—Section 156 of the Federal Agriculture Improvement

and Reform Act of 1996 (7 U.S.C. 7251) 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 in refined form or in sugar containing products.''.

(i) CROPS.—Subsection (j) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251) (as redesignated by subsection (h)(1)) is amended—

(1) by striking ''(other than subsection (f))''; and

(2) by striking ''2002'' and inserting ''2006''.

(j) INTEREST RATE.—Section 163 of the Federal Ag-

SA 2573. Mr. BINGAMAN (for himself, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 111, strike line 11 and all that follows through page 117, line 12, and insert the following:

''SEC. 158G. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

''(a) NONRECOURSE LOANS AVAILABLE.—

''(1) AVAILABILITY.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

''(2) TERMS AND CONDITIONS.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

''(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

''(4) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this section, the Secretary shall make loans to peanut producers on a farm that would be eligible to obtain a marketing assistance loan but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts of other producers in facilities that have not contracted with the Secretary for proper accounting, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 158E.

''(5) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the peanut producers on a farm through—

''(A) a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting loan activities on behalf of peanut producers. Such area marketing associations may construct or own storage facilities as necessary.

''(B) the Farm Service Agency; or

''(6) POOLING.—A designated area marketing association of peanut producers described in paragraph (5)(A) may pool peanuts for marketing in any manner determined appropriate by the association, including the creation of a separate pool for Valencia peanuts produced in New Mexico.

''(b) LOAN RATE.—The loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to a national average loan rate of $400 per ton adjusted for differences in grade, type, quality, location, and other factors, as determined by the Secretary.

''(c) TERM OF LOAN.—

''(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month in which the loan is made except that no peanuts may be forfeited to the Secretary in satisfaction of a loan amount that remain in storage beyond June 30 of the applicable year.

''(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

''(3) ASSOCIATION COSTS.—The amount of a loan made to producers through an area marketing association under this section may include, at the option of the association, such costs as the area marketing association may reasonably incur in carrying out this section, including the costs of making loan deficiency payments.

''(d) REPAYMENT RATE.—The Secretary shall permit peanut producers on a farm or area marketing association as agents of producers to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

''(1) the loan rate established for peanuts under subsection (b), plus interest (as determined by the Secretary); or

''(2) a rate that the Secretary determines will—

''(A) minimize potential loan forfeitures;

''(B) minimize the accumulation of stocks of peanuts by the Federal Government;

''(C) minimize the cost incurred by the Federal Government in storing peanuts; and

''(D) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

''(e) LOAN DEFICIENCY PAYMENTS.—

''(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

''(2) AMOUNT.—A loan deficiency payment under this subsection shall be obtained by multiplying—

''(A) the loan payment rate determined under paragraph (3) for peanuts; by

''(B) the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on the farm obtain a loan under subsection (a).

''(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

''(A) the loan rate established under subsection (b); exceeds

''(B) the rate at which a loan may be repaid under subsection (d).

''(4) TIME FOR PAYMENT.—The Secretary shall make a payment under this subsection to the peanut producers on a farm with respect to a quantity of peanuts as of the earlier of—

''(A) the date on which the peanut producers on the farm marketed or otherwise lost beneficial interest in the peanuts, as determined by the Secretary; or

''(B) the date the peanut producers on the farm request the payment.

''(f) COMPLIANCE WITH CONSERVATION REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the peanut producers on a farm shall comply during the term of the loan with—

''(1) applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

''(2) applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

''(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF EXPENSES.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of the agreements or payment of the expenses for other commodities.

''(h) SPECIAL COMPETITIVE DETERMINATION.—

''(1) IN GENERAL.—The Secretary shall conduct a study to determine whether the ownership or control of peanut buying points throughout the historical peanut growing areas promotes noncompetitive marketing of peanuts in marketing areas.

''(2) NONCOMPETITIVE MARKETING.—For the purpose of paragraph (1) and subsection (g), noncompetitive marketing of peanuts exists if—

''(A) peanut producers must haul peanuts produced by the producers an unreasonable distance to market the peanuts, as determined by the Secretary;

''(B) handlers of peanuts fail to provide reasonable warehouse storage space to area marketing associations that would allow peanut producers to obtain a marketing assistance loan under this section for peanuts stored in the warehouses; or

''(C) competitive sales options are not available to peanut producers.

''(3) 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.

''(i) NONCOMPETITIVE MARKETING.—If the Secretary determines that noncompetitive marketing exists in a marketing area, the Secretary shall—

''(1) make warehouse stored marketing assistance loans available in the marketing area to a designated area marketing association of peanut producers in the marketing area that is approved by the Secretary;

''(2) contract with the area marketing association to administer and supervise activities relating to loans and marketing activities under this section;

''(3) include in a marketing assistance loan made to an area marketing association in the marketing area, at the option of the marketing association, such costs as the area marketing association may reasonably incur in carrying out the responsibilities, operations, and activities of the association and Commodity Credit Corporation under this section; and

''(4) require each handler in the marketing area (as determined by the Secretary)—

''(A) to report commercial warehouse storage capacity to the Secretary; and

''(B) to commit any storage owned or controlled by the handler that is not needed for

the storage of the peanuts of the handler to the Secretary for the purpose of making marketing assistance loans available to peanut producers at all locations where peanuts are marketed and stored.

''(j) DEFINITION OF COMMINGLE.—In this section and section 158H, the term 'commingle', with respect to peanuts, means—

''(1) the mixing of peanuts produced on different farms by the same or different producers; or

''(2) the mixing of peanuts pledged for marketing assistance loans with peanuts that are not pledged for marketing assistance loans, to facilitate storage.

''SEC. 158H. QUALITY IMPROVEMENT.

''(a) MANDATORY INSPECTION.—All peanuts for consumption in the United States or exported, shall be officially inspected and graded by Federal or State inspectors.

''(b) ACCOUNTING FOR COMMINGLED PEANUTS.—All peanuts stored commingled with peanuts covered by a marketing assistance loan shall be graded and exchanged on a dollar value basis, unless the Secretary determines that the beneficial interest in the peanuts covered by the marketing assistance loan have been transferred to other parties prior to demand for delivery.''.

SA 2574. Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. LUGAR, Mr. JOHNSON, Mr. NELSON of Nebraska, Mr. TORRICELLI, and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 178 and insert the following:

SEC. 178. PAYMENT LIMITATIONS; NUTRITION AND COMMODITY PROGRAMS.

(a) PAYMENT LIMITATIONS.—

(1) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (6) and inserting the following:

''(1) LIMITATIONS ON DIRECT AND COUNTER-CYCLICAL PAYMENTS.—Subject to paragraph (5)(A), the total amount of direct payments and counter-cyclical payments made directly or indirectly to an individual or entity during any fiscal year may not exceed $85,000.

''(2) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

''(A) IN GENERAL.—Subject to paragraph (5)(A), the total amount of the payments and benefits described in subparagraph (B) that an individual or entity may directly or indirectly receive during any crop year may not exceed $125,000.

''(B) PAYMENTS AND BENEFITS.—Subparagraph (A) shall apply to the following payments and benefits:

''(i) MARKETING LOAN GAINS.—

''(I) REPAYMENT GAINS.—Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity or peanuts under section 132 or 158G(d) of that Act, respectively.

''(II) FORFEITURE GAINS.—In the case of settlement of a marketing assistance loan under section 131 or 158G(a) of that Act for a crop of any loan commodity or peanuts, respectively, by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

''(ii) LOAN DEFICIENCY PAYMENTS.—Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

''(iii) COMMODITY CERTIFICATES.—Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under section 131 or 158G(a) of that Act.

''(3) SETTLEMENT OF CERTAIN LOANS.—Notwithstanding subtitle C and section 158G of the Federal Agriculture Improvement and Reform Act of 1996, if the amount of payments and benefits described in paragraph (2)(B) attributed directly or indirectly to an individual or entity for a crop year reaches the limitation described in paragraph (2)(A), the portion of any unsettled marketing assistance loan made under section 131 or 158G(a) of that Act attributed directly or indirectly to the individual or entity shall be settled through the repayment of the total loan principal, plus applicable interest.

''(4) DEFINITIONS.—In this section and sections 1001A through 1001F:

''(A) COUNTER-CYCLICAL PAYMENT.—The term 'counter-cyclical payment'' means a payment made under section 114 or 158D of the Federal Agriculture Improvement and Reform Act of 1996.

''(B) DIRECT PAYMENT.—The term 'direct payment' means a payment made under section 113 or 158C of that Act.

''(C) LOAN COMMODITY.—The term 'loan commodity' has the meaning given the term in section 102 of that Act.

''(D) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(5) APPLICATION OF LIMITATION.—

''(A) MARRIED COUPLES.—The total amount of payments and benefits described paragraphs (1) and (2) that a married couple may receive directly or indirectly may not exceed $260,000 during the fiscal or crop year (as appropriate).

''(B) TENANT RULE.—

''(i) IN GENERAL.—Any individual or entity that conducts a farming operation to produce a crop subject to the limitations established under this section as a tenant shall be ineligible to receive any payment or benefit described in paragraph (1) or (2), or subtitle D of title XII, with respect to the land unless the individual or entity makes a contribution of active personal labor to the operation that is at least equal to the lesser of—

''(I) 1000 hours; or

''(II) 40 percent of the minimum number of labor hours required to produce each commodity by the operation (as described in clause (ii)).

''(ii) MINIMUM NUMBER OF LABOR HOURS.—For the purpose of clause (i)(II), the minimum number of labor hours required to produce each commodity shall be equal to the number of hours that would be necessary to conduct a farming operation for the production of each commodity that is comparable in size to an individual or entity's commensurate share in the farming operation for the production of the commodity, based on the minimum number of hours per acre required to produce the commodity in the State where the farming operation is located, as determined by the Secretary.

''(6) PUBLIC SCHOOLS.—The provisions of this section that limit payments to any individual or entity shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.''.

(2) SUBSTANTIVE CHANGE.—Section 1001A(a) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)) is amended—

(A) in the section heading, by striking ''**PREVENTION OF CREATION OF ENTITIES TO QUALITY AS SEPARATE PERSONS;**'' and inserting ''**SUBSTANTIVE CHANGE;**'';

(B) by striking ''(a) PREVENTION'' and all that follows through the end of paragraph (2) and inserting the following:

''(a) SUBSTANTIVE CHANGE.—

''(1) IN GENERAL.—The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of individuals or entities to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

''(2) FAMILY MEMBERS.—For the purpose of paragraph (1), the addition of a family member to a farming operation under the criteria established under subsection (b)(1)(B) shall be considered a bona fide and substantive change in the farming operation.'';

(C) in the first sentence of paragraph (3)—

(i) by striking ''as a separate person''; and

(ii) by inserting '', as determined by the Secretary'' before the period at the end; and

(D) by striking paragraph (4).

(3) ACTIVELY ENGAGED IN FARMING.—Section 1001A(b) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)) is amended—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—To be eligible to receive, directly or indirectly, payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) with respect to a particular farming operation an individual or entity shall be actively engaged in farming with respect to the operation, as provided under paragraphs (2), (3), and (4).'';

(B) in paragraph (2), by adding at the end the following:

''(E) ACTIVE PERSONAL MANAGEMENT.—For an individual to be considered to be providing active personal management under this paragraph on behalf of the individual or a corporation or entity, the management provided by the individual shall be personally provided on a regular, substantial, and continuous basis through the direction supervision and direction of—

''(i) activities and labor involved in the farming operation; and

''(ii) on-site services that are directly related and necessary to the farming operation.'';

(C) in paragraph (3)—

(i) by striking subparagraph (A) and inserting the following:

''(A) LANDOWNERS.—An individual or entity that is a landowner contributing the owned land to the farming operation and that meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A), if the landowner—

''(i) share rents the land; or

''(ii) makes a significant contribution of active personal management.''; and

(ii) in subparagraph (B), by striking ''persons'' and inserting ''individuals and entities''; and

(D) in paragraph (4)—

(i) in the paragraph heading, by striking ''PERSONS'' and inserting ''INDIVIDUALS AND ENTITIES'';

(ii) in the matter preceding subparagraph (A), by striking ''persons'' and inserting ''individuals and entities''; and

(iii) in subparagraph (B)—

(I) in the subparagraph heading, by striking ''PERSONS'' and inserting ''INDIVIDUALS AND ENTITIES''; and

(II) by striking ''person, or class of persons'' and inserting ''individual or entity, or class of individuals or entities'';

(E) by striking paragraph (5);

(F) in paragraph (6), by striking ''a person'' and inserting ''an individual or entity''; and

(G) by redesignating paragraph (6) as paragraph (5).

(4) ADMINISTRATION.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by adding at the end the following:

''(c) ADMINISTRATION.—

''(1) REVIEWS.—

''(A) IN GENERAL.—During each of fiscal years 2002 through 2006, the Office of Inspector General for the Department of Agriculture shall conduct a review of the administration of the requirements of this section and sections 1001, 1001B, 1001C, and 1001E in at least 6 States.

''(B) MINIMUM NUMBER OF COUNTIES.—Each State review described in subparagraph (A) shall cover at least 5 counties in the State.

''(C) REPORT.—Not later than 90 days after completing a review described in subparagraph (A), the Inspector General for the Department of Agriculture shall issue a final report to the Secretary of the findings of the Inspector General.

''(2) EFFECT OF REPORT.—If a report issued under paragraph (1) reveals that significant problems exist in the implementation of payment limitation requirements of this section and sections 1001, 1001B, 1001C, and 1001E in a State and the Secretary agrees that the problems exist, the Secretary—

''(A) shall initiate a training program regarding the payment limitation requirements; and

''(B) may require that all payment limitation determinations regarding farming operations in the State be issued from the headquarters of the Farm Service Agency.''.

(5) SCHEME OR DEVICE.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended by striking ''person'' each place it appears and inserting ''individual or entity''.

(6) FOREIGN INDIVIDUALS AND ENTITIES.—Section 1001C(b) of the Food Security Act of 1985 (7 U.S.C. 1308–3(b)) is amended in the first sentence by striking ''considered a person that is''.

(7) EDUCATION PROGRAM.—Section 1001D(c) of the Food Security Act of 1985 (7 U.S.C. 1308–4(c)) is amended by striking ''5 persons'' and inserting ''5 individuals or entities''.

(8) REPORT TO CONGRESS.—No later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall provide a report to and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes—

(A) how State and county office employees are trained regarding the payment limitation requirements of section 1001 through 1001E of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–5);

(B) the general procedures used by State and county office employees to identify potential violations of the payment limitation requirements;

(C) the requirements for State and county office employees to report serious violations of the payment limitation requirements, including violations of section 1001B of that Act to the county committee, higher level officials of the Farm Service Agency, and to the Office of Inspector General; and

(D) the sanctions imposed against State and county office employees who fail to report or investigate potential violations of the payment limitation requirements.

(b) NET INCOME LIMITATION.—The Food Security Act of 1985 is amended by inserting after section 1001E (7 U.S.C. 1308–5) the following:

''SEC. 1001F. NET INCOME LIMITATION.

''Notwithstanding any other provision of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.), an owner or producer shall not be eligible for a payment or benefit described in paragraphs (1) or (2) of section 1001 for a fiscal or crop year (as appropriate) if the average adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the owner or producer for each of the preceding 3 taxable years exceeds $2,500,000.''.

(c) FOOD STAMP PROGRAM.—

(1) INCREASE IN BENEFITS TO HOUSEHOLDS WITH CHILDREN.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

''(1) STANDARD DEDUCTION.—

''(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall allow for each household a standard deduction that is equal to the greater of—

''(i) the applicable percentage specified in subparagraph (D) of the applicable income standard of eligibility established under subsection (c)(1); or

''(ii) the minimum deduction specified in subparagraph (E).

''(B) GUAM.—The Secretary shall allow for each household in Guam a standard deduction that is—

''(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

''(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

''(C) HOUSEHOLDS OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

''(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be—

''(i) 8 percent for each of fiscal years 2002 through 2004;

''(ii) 8.25 percent for each of fiscal years 2005 and 2006;

''(iii) 8.5 percent for each of fiscal years 2007 and 2008;

''(iv) 8.75 percent for fiscal year 2009; and

''(v) 9 percent for each of fiscal years 2010 and 2011.

''(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $229, $189, $269, and $118 for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, respectively.''.

(2) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 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''.

(3) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended by striking ''such total amount shall not exceed an amount representing $25 per participant per month for costs of transportation and other actual costs (other than dependent care costs) and'' and inserting ''the amount of the reimbursement for dependent care expenses shall not exceed''.

(4) EFFECTIVENESS OF CERTAIN PROVISIONS.—Section 413 and subsections (c) and (d) of section 433, and the amendments made by section 413 and subsections (c) and (d) of section 433, shall have no effect.

(d) LOAN DEFICIENCY PAYMENTS.—

(1) ELIGIBILITY.—Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) (as amended by section 126(1)) is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The Secretary may make loan deficiency payments available to—

''(1) producers on a farm that, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the covered commodity in return for payments under this section; and

''(2) effective only for the 2000 and 2001 crop years, producers that, although not eligible to obtain such a marketing assistance loan under section 131, produce a loan commodity.''.

(2) BENEFICIAL INTEREST.—Section 135(e)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235(e)) (as amended by section 126(2)) is amended by striking ''A producer'' and inserting ''Effective for the 2001 through 2006 crops, a producer''.

(e) COST OF PRODUCTION INSURANCE.—

(1) IN GENERAL.—Section 523 of the Federal Crop Insurance Act (7 U.S.C.1523) by adding at the end the following:

''(e) COST OF PRODUCTION INSURANCE PROGRAM.—

''(1) PILOT PROGRAM.—

''(A) IN GENERAL.—During each of the 2003 through 2006 reinsurance years, the Corporation shall carry out a pilot program throughout the United States under which cost of production crop insurance is made available to producers of agricultural commodities.

''(B) PRIORITY.—Subject to subparagraph (C), in carrying out subparagraph (A), the Corporation shall offer coverage on at least—

''(i) for the 2003 reinsurance year, 20 agricultural commodities;

''(ii) for the 2004 and 2005 reinsurance years, in addition to the agricultural commodities described in clause (i), apples, asparagus, blueberries (wild and domestic), cabbage, canola, carrots, cherries, Christmas trees, citrus, cucumbers, dry beans, eggplant, floriculture, grapes, greenhouse and nursery agricultural commodities, green peas, green peppers, hay, lettuce, maple, mushrooms, pears, potatoes, pumpkins, snap beans, spinach, squash, strawberries, sugar beets, and tomatoes; and

''(iii) for the 2006 reinsurance year, in addition to the agricultural commodities described in clauses (i) and (ii), 10 additional commodities, as determined by the Corporation.

''(C) ACREAGE LIMITATION.—For each of the 2003 through 2006 reinsurance years, the Corporation may not extend coverage under this paragraph in excess of 40 percent of the acreage planted to any agricultural commodity included under the pilot program.

''(2) PERMANENT PROGRAM.—For the 2007 and subsequent reinsurance years, the Corporation shall convert the cost of production insurance program into a permanent program unless the Corporation determines that—

''(A) the program could not be conducted on an actuarially sound basis; or

''(B) the expansion of the coverage would cause increased risk for fraud, waste, or abuse of the program.''.

(2) ADDITIONAL PAYMENT OF PREMIUM.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended by adding at the end the following:

''(6) BONUS PAYMENT.—

''(A) IN GENERAL.—Subject to subparagraph (C), in addition to any other payment authorized under this subsection, the Corporation shall pay an additional part of the premium for crop insurance policies described

in subsection (a) as determined by this Corporation for producers that—

''(i) are small or moderate in size;

''(ii) adopt innovative risk management strategies and increase the level of coverage;

''(iii) are producers of a specialty crop and increase the level of coverage; or

''(iv) are located in an underserved area.

''(B) AMOUNT PER POLICY.—A payment under this paragraph shall not exceed $850 per crop insurance policy.

''(C) FUNDING LIMITATION.—The amount of funds of the Corporation that may be used to carry out this paragraph may not exceed—

''(i) $45,000,000 for fiscal year 2003;

''(ii) $50,000,000 for fiscal year 2004; and

''(iii) $61,000,000 for fiscal year 2005 and each subsequent fiscal year.

''(D) RESERVE.—

''(i) IN GENERAL.—Subject to clause (ii), of the funds made available to carry out this paragraph, the Corporation shall reserve for payments to producers that obtain cost of production policies described in section 523(e)—

''(I) $10,400,000 for fiscal year 2003;

''(II) $36,000,000 for fiscal year 2004; and

''(III) $50,000,000 for fiscal year 2005.

''(ii) UNUSED FUNDS.—Any funds made reserved under clause (i) that are not obligated by June 1 of the fiscal year shall be used to provide payments to producers that obtain any type of crop insurance made available under this Act.''.

(3) RESEARCH AND DEVELOPMENT FUNDING.—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) by striking paragraph (1) and inserting the following:

''(1) REIMBURSEMENTS.—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to provide reimbursements under subsection (b) not more than—

''(A) $32,000,000 for fiscal year 2002;

''(B) $22,500,000 for each of fiscal years 2003 and 2004;

''(C) $25,000,000 for fiscal year 2005; and

''(D) $15,000,000 for fiscal year 2006 and each subsequent fiscal year.''.

(4) EDUCATION AND INFORMATION FUNDING.—Section 524(a)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(4)) is amended by striking subparagraph (A) and inserting the following:

''(A) for the education and information program established under paragraph (2)—

''(i) $10,000,000 for each of fiscal years 2002 through 2005; and

''(ii) $5,000,000 for fiscal year 2006 and each subsequent fiscal year; and''.

(5) REPORTS.—

(A) PLAN.—Not later than September 30, 2002, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains an implementation plan for this subsection and the amendments made by this subsection.

(B) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the implementation of this subsection and the amendments made by this subsection.

(f) INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.—Section 401(b)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)(1)) (as amended by section 401) is amended—

(1) in subparagraph (A), by striking ''$120,000,000'' and inserting ''$130,000,000''; and

(2) in subparagraph (B), by striking ''$145,000,000'' and inserting ''$225,000,000''.

SA 2575. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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 Development;

''(C) the Southern Rural Development Center; and

''(D) the New Mexico State University Cooperative Extension Service, working in cooperation with the Western Rural Development Center.

''(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.''.

SA 2576. Mr. DASCHLE (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 1021 and insert a period and the following:

SEC. 1022. 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) ensure the compilation and public disclosure of data critical to assessing Department civil rights compliance in achieving on a nondiscriminatory basis participation of socially disadvantaged farmers and ranchers in programs of the Department on a nondiscriminatory basis;

''(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).''.

SA 2577. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 164 and insert a period and the following:

SEC. 165. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PREVIOUSLY CROPPED LAND.

''(a) DEFINITION OF AGRICULTURAL COMMODITY.—In this section:

''(1) IN GENERAL.—The term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

''(2) EXCLUSIONS.—The term 'agricultural commodity' does not include forage, livestock, timber, forest or hay.

''(b) COMMODITIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, except as provided in paragraph (2), the Secretary shall not provide a payment, loan, or other benefit under this title to an owner or producer, with respect to land or a loan commodity planted or considered planted on land during a crop year unless the land has been planted, considered planted, or devoted to an agricultural commodity during —

''(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

''(B) at least 3 of the 10 crop years preceding the 2002 crop year.

''(2) CROP ROTATION.—Paragraph (1) shall not apply to an owner or producer, with respect to any agricultural commodity planted or considered planted, on land if the land—

''(A) has been planted, considered planted, or devoted to an agricultural commodity during at least 1 of the 20 crop years preceding the 2002 crop year; and

''(B) has been maintained using long-term crop rotation practices, as determined by the Secretary.

''(c) CONSERVATION RESERVE LAND.—For purposes of this section, land that is enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C.3831 et seq.) shall be considered planted to an agricultural commodity.''.

SA 2578. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 128, line 8, insert the following:

Subtitle F—Miscellaneous Commodity Provision

SEC. 166. 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 because the Secretary failed to carry out Public Law 107–25 in a timely manner.

(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 if Public Law 107–25 had been implemented in a timely manner.

SA 2579. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agriculture research nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 492, line 13 insert the following section:

''(c) LIVESTOCK.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) (as amended by section 637(a)) is amended by adding at the end of the following:

''(14) LIVESTOCK.—The term ''livestock'' includes horses.''.

SA 2580. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 876, line 25, after the word ''oils'' insert the words ''(including recycled fats and oils)''

SA 2581. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agriculture producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, line 12, strike section 212(d) 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 ''shall enter into contracts of not less than 10, nor more than 15, years.'' and inserting the following: ''may enter into contracts—

''(A) for land enrolled in the conservation reserve program that is not covered by a hardwood tree contract, covering not to exceed 3,000,000 acres, for 30 or more years; and

''(B) covering any remaining acreage, with terms of not less than 10, nor more than 15, years.''; and

(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 sub-paragraph, the Secretary may extend the contract for a term of not more than 15 years.

''(ii) BASE PAYMENTS.—The amount of a base payment for a contract extended under clause (i)—

''(I) shall be determined by the Secretary; but

''(II) shall not exceed 50 percent of the base payment that was applicable to the contract before the contract was extended.''.

SA 2582. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, strike lines 6 through 9 and insert the following:

''water rights on a permanent basis;

''(B) implement the program in accordance with the purposes of such laws described in subparagraph (A) as are applicable; and

''(C) comply with—

''(i) all interstate compacts, court decrees, and Federal or State laws (including regulations) that may affect water or water rights; and

''(ii) all procedural and substantive State water law.''.

SA 2583. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 937, strike line 17 and insert the following:

SEC. 1011. SWEET POTATO CROP INSURANCE.

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 ''tobacco and potatoes,'' and inserting ''tobacco, potatoes, and sweet potatoes,''.

SEC. 1012. CONTINUOUS COVERAGE.

SA 2584. Mr. BREAUX (for himself, Ms. LANDRIEU, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 39, strike line 18 and all that follows through page 40, line 8, and insert the following:

''(e) BENEFICIAL INTEREST.—For any of the 2001 through 2006 crops, if a producer eligible for a payment under subsection (a) loses beneficial interest in the loan commodity, the producer shall be eligible for the payment determined as of the date on which the producer lost beneficial interest in the loan commodity, as determined by the Secretary.''.

SA 2585. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 125, between lines 4 and 5, insert the following:

SEC. 1___. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.

(a) IN GENERAL.—Of the funds made available to carry out section 191 of the Federal Agriculture Improvement and Reform Act of 1996 (as amended by section 163), the Secretary of Agriculture shall use $25,000,000 for each of fiscal years 2002 through 2005 to make payments, as soon as practicable after the date of enactment of this Act, to apple producers to provide relief for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

SA 2586. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 12, line 22, strike ''mohair,''.

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 59, line 2, strike ''Promotion'' and insert ''Production''.

On page 70, strike lines 4 through 10 and insert the following:

(h) SUBSTITUTABILITY OF SUGAR.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251) 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 in refined form or in sugar containing products.''.

(i) CROPS.—Subsection (j) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251) (as redesignated by subsection (h)(1)) is amended—

(1) by striking ''(other than subsection (f))''; and

(2) by striking ''2002'' and inserting ''2006''.

(j) INTEREST RATE.—Section 163 of the Federal Ag-

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 subclause (I).

''(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 may provide the new entrant mainland State with an allotment to accommodate the allocation of the new entrant processor.

''(bb) EFFECT ON OTHER ALLOTMENTS.—The allotment to the new entrant State shall be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 359c(e)(3).

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 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, and insert the following:

''(3) SELECTION BY PRODUCER.—If a county in which a historical peanut producer described in paragraph (2) is located is declared a disaster area during 1 or more of the 4 crop years described in paragraph (2), for purposes of determining the 4-year average yield for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 of the crop years during which a disaster is declared—

''(A) the State 4-year average yield of peanuts produced in the State; or

''(B) the average yield for the historical peanut producer determined by the Secretary under paragraph (1).

On page 116, strike lines 7 through 15 and insert the following:

''(a) OFFICIAL INSPECTION.—All peanuts placed under a marketing assistance loan under section 158G or otherwise sold or marketed shall be officially inspected and graded by a Federal or State inspector.

On page 126, line 21, strike ''contract commodities'' and insert ''loan commodities (other than wool and honey)''.

On page 126, line 22, strike ''and mohair''.

On page 128, between lines 8 and 9, insert the following:

SEC. 166. 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)''.

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 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) determined by the State conservationist, in consultation with the State technical committee established under subtitle G and the local subcommittee of the State technical committee; and

''(B) approved by the Secretary.

On page 160, line 7, strike ''the'' and insert ''applicable''.

On page 166, line 9, strike ''purposes'' and insert ''objectives''.

On page 166, line 15, insert ''local'' before ''conservation''.

On page 177, line 13, insert '', education and outreach, and monitoring and evaluation'' after ''assistance''.

On page 220, lines 24 and 25, strike ''facility,'' and insert ''facility (including a methane recovery system),''.

On page 230, line 17, strike ''(a) IN GENERAL.—''.

On page 286, line 23, strike the quotation marks at the end.

On page 288, line 12, insert ''(b)'' after ''1623''.

On page 288, line 17, strike ''1964'' and insert ''1946''.

On page 290, line 8, insert ''that are located east of the 98th meridian'' before the period.

On page 331, line 6, strike ''a certification of'' and insert ''evidence of''.

On page 331, strike lines 16 through 25 and insert the following:

''(A) submit a single proposal for 1 or more countries in which the certified institutional partner has already demonstrated organizational capacity; and

''(B) receive expedited review of the proposal.''.

On page 334, strike lines 9 through 17 and insert the following:

SEC. 305. 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, 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. 309. 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''.

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 page359, 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 paragraph (7)(C)—

''(i) not more than $55,000,000 of funds that would be available to carry out paragraph (2) may be used to cover costs under clauses (iv), (v), and (vi) of subparagraph (A); and

''(ii) of the amount provided under clause (i), not more than $12,000,000 shall be made available to cover costs under subparagraph (A)(vi).

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 subsubsection.''.

On page 375, lines 3 and 4, strike ''a certification of'' and insert ''evidence of''.

On page 375, strike lines 14 through 23 and insert the following:

''(A) submit a single proposal for 1 or more countries in which the certified institutional partner has already demonstrated organizational capacity; and

''(B) receive expedited review of the proposal.''.

On page 404, between lines 7 and 8, insert the following:

SEC. 425. REDEMPTION OF BENEFITS THROUGH GROUP LIVING ARRANGEMENTS.

Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 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.''.

On page 404, line 8, strike ''**425**'' and insert ''426''.

On page 404, line 21, strike ''**426**'' and insert ''427''.

On page 408, line 1, strike ''**427**'' and insert ''428''.

On page 408, line 18, strike ''**428**'' and insert ''429''.

On page 411, line 3, strike ''**429**'' and insert ''430''.

On page 411, line 12, strike ''**430**'' and insert ''**431**''.

Beginning on page 416, strike line 11 and all that follows through page 418, line 11, and insert the following:

''(10) ADJUSTMENTS OF PAYMENT ERROR RATE.—

''(A) IN GENERAL.—

''(i) ADJUSTMENT FOR HIGHER PERCENTAGE OF HOUSEHOLDS WITH EARNED INCOME.—With respect to fiscal year 2002 and each fiscal year thereafter, in applying paragraph (1), the Secretary shall adjust the payment error rate determined under paragraph (2)(A) as necessary to take into account any 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 418, line 22, strike ''**431**'' and insert ''**432**''.

On page 419, line 12, strike ''**432**'' and insert ''**433**''.

On page 419, line 16, strike ''430(a)(6))'' and insert ''431(a)(6))''.

On page 425, line 1, strike ''**433**'' and insert ''**434**''.

Beginning on page 427, strike line 23 and all that follows through page 428, line 5, and insert the following:

(c) 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 428, line 9, strike ''**434**'' and insert ''**435**''.

On page 429, line 7, strike ''**435**'' and insert ''**436**''.

On page 429, line 21, strike ''**436**'' and insert ''**437**''.

On page 430, line 8, strike ''**437**'' and insert ''**438**''.

On page 436, line 9, strike ''**438**'' and insert ''**439**''.

On page 438, after line 24, add the following:

(b) REPORT TO CONGRESS AND INCREASED AUTHORIZATION.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall develop and submit to Congress a report that—

(A) describes the similarities and differences (in terms of program administration, rules, benefits, and requirements) between—

(i) the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), other than section 19 of that Act (7 U.S.C. 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 Secretary as to whether additional funding should be provided to carry out section 19 of that Act.

(2) INCREASED AUTHORIZATION.—Effective on the date of submission 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 this subsection unless specifically provided by an appropriation Act.

On page 439, line 1, strike ''(b)'' and insert ''(c)''.

On page 439, line 3, strike ''(c)'' and insert ''(d)''.

On page 439, line 11, strike ''**439**'' and insert ''**440**''.

On page 440, strike line 3 and insert the following:

''(5) meet, as soon as practicable through the provision of grants of not to exceed $25,000 each, specific

On page 440, strike lines 6 and 7 and insert the following:

''(A) infrastructure improvement and development (including the purchase of equipment necessary for the production, handling, or marketing of locally produced food);

On page 440, line 14, strike ''**440**'' and insert ''**441**''.

On page 442, line 1, strike ''**441**'' and insert ''**442**''.

On page 442, line 3, strike ''The Food'' and insert the following:

(a) IN GENERAL.—The Food

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 444, line 17, strike ''**442**'' and insert ''**443**''.

On page 445, line 8, strike ''**443**'' and insert ''**444**''.

On page 448, strike lines 8 through 22 and insert the following:

''(2) AMOUNT OF GRANTS.—

''(A) FISCAL YEAR 2003.—For fiscal year 2003, the amount of each grant per caseload slot shall be equal to $50, adjusted by the percentage change between—

''(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

''(ii) the value of that index for the 12-month period ending June 30, 2002.

''(B) FISCAL YEARS 2004 THROUGH 2006.—For each of fiscal years 2004 through 2006, the amount of each grant per caseload slot shall

be equal to the amount of the grant per 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. 456. 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. 457. 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) not less often than annually, advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph; 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, line 1, strike ''**456**'' and insert ''**458**''.

On page 455, strike lines 6 through 20 and insert the following:

(b) PROGRAM PURPOSE.—The purpose of the seniors farmers' market nutrition program is to provide to low-income seniors resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs from farmers' 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.).

On page 456, line 13, strike ''**457**'' and insert ''**459**''.

On page 457, line 18, strike ''**458**'' and insert ''**460**''.

On page 477, line 6, strike ''**459**'' and insert ''**461**''.

On page 479, line 7, strike ''**460**'' and insert ''**462**''.

On page 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;

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 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) 50 percent of the amount of resources (in cash or in kind) raised by the Rural Business Investment Company; or

''(B) $1,000,000.

''(2) OTHER ENTITIES.—The amount of a grant made under this section to any entity other than a Rural Business Investment Company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to Rural Business Investment Companies under this subtitle.

On page 551, lines 22 and 23, strike ''30 percent of the voting'' and insert ''15 percent of the''.

On page 552, line 6, 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 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 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 664, strike lines 4 through 13.

On page 664, line 14, strike ''**645**'' and insert ''**644**''.

On page 665, line 1, strike ''**646**'' and insert ''**645**''.

On page 675, line 17, strike ''**647**'' and insert ''**646**''.

On page 675, line 20, strike ''646'' and insert ''645''.

On page 711, strike lines 17 through 25.

On page 712, line 1, strike ''**662**'' and insert ''**661**''.

On page 716, strike lines 18 through 22.

On page 716, line 23, strike ''(c)'' and insert ''(b)''.

On page 717, line 7, strike ''**663**'' and insert ''**662**''.

On page 737, lines 17 and 18, strike ''(excluding 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 758, strike lines 6 through 121 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 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 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) FUNDING.—Of the amounts authorized to carry out this Act, the Secretary may use such sums as are necessary to carry out this section for each of fiscal years 2003 through 2006.''.

On page 795, line 5, insert ''(a) IN GENERAL.—'' before ''The''.

On page between lines 15 and 16, insert the following:

(b) SPECIAL GRANTS FOR RESEARCH ON DAIRY PIPELINE CLEANERS.—The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended in subsection (c)—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) to conduct research on means of preventing and eliminating the dangers of dairy pipeline cleaner, including—

''(i) developing safer packaging mechanisms and a new transfer mechanism, including a new pumping mechanism for dairy pipeline cleaner;

''(ii) outlining—

''(I) the accident history for dairy pipeline cleaner;

''(II) the causes of accidents involving dairy pipeline cleaner; and

''(III) potential means of prevention of such accidents, including improved labeling and pump structure; and

''(iii) other means of improving efforts to prevent ingestion of dairy pipeline cleaner.''; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) $100,000 for each of fiscal years 2002 through 2006 may be used to carry out paragraph (1)(C); and''.

Beginning on page 815, strike line 16 and all that follows through page 816, line 3, and insert the following:

SEC. 798C. 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 837, strike line 15 and insert the following:

SEC. 807. 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.''.

SEC. 808. FOREST FIRE RESEARCH CENTERS.

Beginning on page 840, strike line 23 and all that follows through page 841, line 2, and insert the following:

''(1) at least 1 center shall be located in California, Idaho, Montana, Oregon, or Washington; and

''(2) at least 1 center shall be located in Arizona, Colorado, Nevada, New Mexico, or Wyoming.

Beginning on page 842, strike line 6 and all that follows through page 854, line 3, and insert the following:

SEC. 809. WILDFIRE PREVENTION AND 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 percent of the contracts entered into under subparagraph (A) shall be subject to the conditions that—

(i) funds from the contract, and any offset value of forest products that exceeds the value of the resource improvement treatments carried out under the contract, shall be deposited in the Treasury of the United States;

(ii) section 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. 810. ENHANCED COMMUNITY FIRE PROTECTION.

On page 858, strike line 8 and insert the following:

SEC. 811. WATERSHED FORESTRY ASSISTANCE PROGRAM.

On page 870, strike line 1 and insert the following:

SEC. 812. SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE INITIATIVE.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 7 (16 U.S.C. 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.''.

SEC. 813. GENERAL PROVISIONS.

On page 870, strike line 21 and insert the following:

SEC. 814. STATE FOREST STEWARDSHIP COORDINATING COMMITTEES.

On page 871, between lines 22 and 23, insert the following:

SEC. 815. OFFICE OF TRIBAL RELATIONS.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 19 (16 U.S.C. 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. 816. ASSISTANCE TO TRIBAL GOVERNMENTS.

The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end the following:

''SEC. 21. ASSISTANCE TO TRIBAL GOVERNMENTS.

''(a) DEFINITION OF INDIAN TRIBE.—In this section, the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(b) ESTABLISHMENT.—The Secretary may provide financial, technical, educational and related assistance to Indian tribes for—

''(1) tribal consultation and coordination with the Forest Service on issues relating to—

''(A) tribal rights and interests on Forest Service land (including national forests and 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. 817. SUDDEN OAK DEATH SYNDROME.

(a) FINDINGS.—Congress finds that—

(1) tan oak, coast live oak, Shreve's oak, and black oak trees are among the most beloved features of the topography of California and the Pacific Northwest and efforts should be made to protect those trees from disease;

(2) the die-off of those trees, as a result of the exotic Phytophthora fungus, is approaching epidemic proportions;

(3) 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.

On page 876, line 4, strike ''647'' and insert ''646''.

On page 876, line 6, strike ''**L**'' and insert ''**K**''.

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 ''30''.

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 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, strike line 23 and insert the following:

''(3) generate both usable electricity and heat;

On page 911, strike lines 7 through 10 and insert the following:

''(A) a college or university or a research foundation maintained by a college or university;

On page 912, line 17, strike ''and establish''.

On page 913, strike line 3 and insert the following:

''(2) DEVELOPMENT OF BENCHMARK STANDARDS.—

''(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—

''(i) information from the conference under paragraph (1);

''(ii) research conducted under this section; and

''(iii) other information available to the Secretary.

''(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on the benchmark standards developed under subparagraph (A).

''(3) REPORT.—Not later than 180 days after

On page 918, line 16, strike ''(as amended by section 661)''.

On page 918, line 18, strike ''**21**'' and insert ''**20**''.

On page 918, strike lines 20 through 23 and insert the following:

''(a) DEFINITIONS.—In this section:

''(1) RENEWABLE ENERGY.—The term 'renewable energy' means energy derived from a wind, solar, biomass, geothermal, or 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).

On page 919, line 2, after ''utilities'', insert the following: ''(as determined by the Secretary)''.

Beginning on page 925, strike line 14 and all that follows through page 926, line 25, and insert the following:

''(B) ELIGIBILITY CRITERIA.—To be eligible for a grant under paragraph (1), a project shall (as determined by the Secretary)—

''(i) be designed to—

''(I) achieve long-term sequestration of carbon or long-term reductions in greenhouse gas emissions;

''(II) address concerns regarding leakage; or

''(III) promote 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.

Beginning on page 927, strike line 22 and all that follows through page 928, line 11.

On page 928, line 12, strike ''(d)'' and insert ''(c)''

On page 928, line 20, strike ''(e)'' and insert ''(d)''.

On page 930, strike lines 8 through 10 and insert the following:

''Subtitle D—Country of Origin Labeling

''SEC. 281. DEFINITIONS.

On page 932, line 6, strike ''**272**'' and insert ''**282**''.

On page 934, line 6, strike ''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. 1___. 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''.

Beginning on page 941, strike line 6 and all that follows through page 942, line 23, and insert the following:

SEC. 1___. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

Title III of the Packers and Stockyards Act, 1921 (7 U.S.C. 201 et seq.), is amended by adding at the end the following:

''SEC. 318. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

''(a) DEFINITIONS.—In this section:

''(1) HUMANELY EUTHANIZE.—The term 'humanely euthanize' means to kill an animal by mechanical, chemical, or other means that immediately render the animal unconscious, with this state remaining until the animal's death.

''(2) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any livestock that is unable to stand and walk unassisted.

''(b) UNLAWFUL PRACTICES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.

''(2) EXCEPTIONS.—

''(A) NON-GIPSA FARMS.—Paragraph (1) shall not apply to any farm the animal care practices of which are not subject to the authority of the Grain Inspection, Packers, and Stockyards Administration.

''(B) VETERINARY CARE.—Paragraph (1) shall not apply in a case in which nonambulatory livestock receive veterinary care intended to render the livestock ambulatory.

''(c) APPLICATION OF PROHIBITION.—Subsection (b) shall apply beginning one year after the date of the enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001. By the end of such period, the Secretary shall promulgate regulations to carry out this section.''.

On page 945, between lines 5 and 6, insert the following:

SEC. 10___. LIMITATION ON EXHIBITION OF POLAR BEARS.

The Animal Welfare Act is amended by inserting after section 17 (7 U.S.C. 2147) the following:

''SEC. 18. LIMITATION ON EXHIBITION OF POLAR BEARS.

''An exhibitor that is a carnival, circus, or traveling show (as determined by the Secretary) shall not exhibit polar bears.''.

On page 951, between lines 6 and 7, insert the following:

SEC. 10___. FARMERS' MARKET PROMOTION PROGRAM.

(a) SURVEY.—Section 4 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3003) is amended—

(1) in the first sentence, by striking ''a continuing'' and inserting ''an annual''; and

(2) by striking the second sentence.

(b) DIRECT MARKETING ASSISTANCE.—Section 5 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''Extension Service of the United States Department of Agriculture'' and inserting ''Secretary''; and

(B) in the second sentence—

(i) by striking ''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'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

''(b) DEVELOPMENT OF FARMERS' MARKETS.—The Secretary shall—

''(1) work with the Governor of a State, and 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.''.

(c) 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) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the Program shall not exceed 60 percent.

''(2) NON-FEDERAL 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 non-Federal 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 2003 through 2008.

''(2) LIMITATION.—No amounts may be made available to carry out this section unless specifically provided by an appropriation Act.''.

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, 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 977, after line 15, add the following:

SEC. 10___. PEST MANAGEMENT IN SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the ''School Environment Protection Act of 2001''.

(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 2001, 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 2001, 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 2001, 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 2001, 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 2001, 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, 2001.

On page 978, line 11, strike ''FELONIES'' and insert ''MAJOR VIOLATIONS''.

On page 978, line 13, after ''person'', insert the following: ''that commits a violation of this title described in this subparagraph shall be guilty of a felony and, on conviction,''.

On page 979, line 25, strike ''MISDEMEANORS'' and insert ''OTHER VIOLATIONS''.

On page 980, line 12, 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 985, strike line 1 and insert the following:

Subtitle D—Animal Health Protection

SEC. 1041. SHORT TITLE.

This subtitle may be cited as the ''Animal Health Protection Act''.

SEC. 1042. FINDINGS.

Congress finds that—

(1) the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect—

(A) animal health;

(B) the health and welfare of the people of the United States;

(C) the economic interests of the livestock and related industries of the United States;

(D) the environment of the United States; and

(E) interstate commerce and foreign commerce of the United States in animals and 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. 1043. DEFINITIONS.

In this subtitle:

(1) ANIMAL.—The term ''animal'' means any member of the animal kingdom (except a human).

(2) ARTICLE.—The term ''article'' means any pest or disease or any material or tangible object that could harbor a pest or disease.

(3) DISEASE.—The term ''disease'' means—

(A) any infectious or noninfectious disease or condition affecting the health of livestock; or

(B) any condition detrimental to production 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. 1044. RESTRICTION ON IMPORTATION OR ENTRY.

(a) IN GENERAL.—The Secretary may prohibit or restrict—

(1) the importation or entry of any animal, article, or means of conveyance, 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. 1045. EXPORTATION.

(a) IN GENERAL.—The Secretary may prohibit or restrict—

(1) the exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock;

(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. 1046. INTERSTATE MOVEMENT.

The Secretary may prohibit or restrict—

(1) the movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock; and

(2) the use of any means of conveyance or facility in connection with the movement in interstate commerce of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock.

SEC. 1047. SEIZURE, QUARANTINE, AND DISPOSAL.

(a) IN GENERAL.—The Secretary may hold, seize, 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. 1048. 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 1047(b), on probable cause to believe that the person or means of conveyance is carrying any animal or article quarantined under section 1047(b).

(c) INSPECTIONS WITH WARRANTS.—

(1) IN GENERAL.—The Secretary may enter, with a warrant, any premises in the United States for the purpose of making inspections 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. 1049. DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) IN GENERAL.—The Secretary may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.

(b) COMPENSATION.—The Secretary may pay a claim arising out of the destruction of any animal, article, or means of conveyance consistent with the purposes of this subtitle.

SEC. 1050. VETERINARY ACCREDITATION PROGRAM.

(a) IN GENERAL.—The Secretary may establish a veterinary accreditation program that is consistent with this subtitle, including the establishment of standards of conduct for accredited veterinarians.

(b) CONSULTATION.—The Secretary shall consult with State animal health officials regarding the establishment of the veterinary accreditation program.

SEC. 1051. 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. 1052. 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. 1053. ADMINISTRATION AND CLAIMS.

(a) ADMINISTRATION.—To carry out this subtitle, the Secretary may—

(1) acquire and maintain real or personal property;

(2) employ a person;

(3) make a grant; and

(4) notwithstanding chapter 63 of title 31, United States Code, enter into a contract, cooperative agreement, memorandum of understanding, or other agreement.

(b) TORT CLAIMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim, in the manner authorized by the first paragraph of section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with an activity authorized under this subtitle.

(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. 1054. 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. 1055. 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 1054.

SEC. 1056. REGULATIONS AND ORDERS.

The Secretary may promulgate such regulations, and issue such orders, as the Secretary determines necessary to carry out this subtitle.

SEC. 1057. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—In connection with an emergency 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. 1058. 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 1056 that supersedes the earlier regulation.

Subtitle E—Administration

On page 984, after line 2, insert the following:

SEC. 10___. REPORT TO CONGRESS ON POUCHED AND CANNED SALMON.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall submit to Congress a report on efforts to expand the promotion, marketing, and purchasing of pouched and canned salmon harvested and processed in the United States under food and nutrition programs administered by the Secretary.

(b) COMPONENTS.—The report under subsection (a) shall include—

(1) an analysis of pouched and canned salmon inventories in the United States that, as of the date on which the report is submitted, that available for purchase;

(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.

On page 985, line 2, strike ''456'' and insert ''458''.

On page 985, line 3, strike ''456'' and insert ''458''.

SA 2587. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 424, strike line 7 and insert the following:

SEC. 460. USE OF APPROVED FOOD SAFETY TECHNOLOGY.

In acquiring commodities for distribution through programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the Child Nutrition Act of 1966 (42 U.S.C. 1711 et seq.), the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.), or the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86), the Secretary of Agriculture shall to prohibit or discourage the use of any technology that the Secretary of Agriculture or the Secretary of Health and Human Services has approved to improve food safety.

SA 2588. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 34, line 19, strike the period at the end and insert a period and the following:

SEC. 114. PILOT PROGRAM FOR FARM 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, but not more than $250,000, 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, but not more than $250,000, 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.—

''(1) IN GENERAL.—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) FORMULA.—The Secretary shall establish a formula to determine the amount of matching contributions that will be provided by the Secretary under paragraph (1).

''(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 annually.

''(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 $2,000,000 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 an applicable year, a producer may withdraw from the account an amount equal to 90 percent of average the adjusted gross revenue of the producer for the previous 5 years less the adjusted gross revenue of the producer.

''(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.''.

SA 2589. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

In subparagraph 421(a)(2)(A), strike ''36-month'' and insert ''12-month (24-month prior to fiscal year 2004)''.

SA 2590. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and

rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

''(i) 8 percent for each of fiscal years 2002 through 2006;

''(ii) 8.5 percent for each of fiscal years 2007 through 2008;

''(iii) 9 percent for fiscal year 2009;

''(iv) 9.5 percent for fiscal year 2010; and

''(v) 10 percent for fiscal year 2011 and each subsequent fiscal year.''

SA 2591. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 941, line 4, strike the period at the end and insert the following:

Subtitle C—Income Loss Assistance

SEC. 10___. INCOME LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this subtitle as the ''Secretary'') shall use $1,800,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying income losses for the 2001 crop.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and economic losses as were used in administering that section.

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

SEC. 10___. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001, of which $12,000,000 shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–51).

SEC. 10___. COMMODITY PURCHASES.

(a) IN GENERAL.—The Secretary shall use $220,000,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2001 crop year, as determined by the Secretary.

(b) GEOGRAPHIC DIVERSITY.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States, particularly agricultural production in the Northeast and Mid-Atlantic States.

(c) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS.—The Secretary may use not more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 10___. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle.

SEC. 10___. ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to pay the salaries and expenses of the Department of Agriculture in carrying out this subtitle $50,000,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

SEC. 10___. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this subtitle.

(b) PROCEDURE.—The promulgation of the regulations and administration of this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) MARKETING ASSESSMENT FOR SUGAR.—Section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 7272(f)) shall not apply with respect to the 2001 crop of sugarcane and sugar beets.

(d) FSA EMERGENCY PROGRAMS.—For an additional amount for salaries and expenses of the Farm Service Agency to administer emergency programs, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, $50,000,000, to remain available until expended.

(e) EMERGENCY DESIGNATION.—The entire amount made available in subtitle c

(1) shall be available only to the extent that the President submits to Congress an official budget request for the amount that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.); and

(2) is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

SA 2592. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title VII, add the following:

SEC. 7 . INTERSTATE MOVEMENT OF ANIMALS FOR ANIMAL FIGHTING.

(a) REMOVAL OF LIMITATION.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended by striking subsection (d) and inserting the following:

''(d) ACTIVITIES NOT SUBJECT TO PROHIBITION.—This section does not apply to the selling, buying, transporting, or delivery of animals in interstate or foreign commerce for any purpose or purposes, so long as those purposes do not include that of an animal fighting venture.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date that is 30 days after the date of enactment of this Act.

SA 2593. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

SEC. . REPORT.

(a) IN GENERAL.—Not later than December 31, 2002, and annually thereafter through 2006, the General Accounting Office shall submit a report to Congress describing programs and activities that tobacco States have funded using funds received under the Master Settlement Agreement of 1997.

(b) TOBACCO STATE.—The term ''tobacco State'' has the same meaning that such term has in the Master Settlement Agreement of 1997.

SA 2594. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

SEC. . REPORT.

(a) IN GENERAL.—Not later than December 31, 2002, and annually thereafter through

2006, the General Accounting Office shall submit a report to Congress describing programs and activities that tobacco States have funded using funds received under the Master Settlement Agreement of 1997.

(b) TOBACCO STATE.—The term ''tobacco State'' has the same meaning that such term has in the Master Settlement Agreement of 1997.

SA 2595. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (e)—

(A) by inserting ''PENALTIES.—'' after ''(e)'';

(B) by striking ''$5,000'' and inserting ''$15,000''; and

(C) by striking ''1 year'' and inserting ''2 years''; and

(2) in subsection (g)(2)(B), by inserting before the semicolon at the end the following: ''or from any State into any foreign country''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 30 days after the date of enactment of this Act.

SA 2596. Mr. SMITH of New Hampshire (for himself, Mr. TORRICELLI, Mr. GRAHAM, Mr. ALLEN, Mr. ENSIGN, Mr. HELMS, Mr. NELSON of Florida, Mr. LIEBERMAN, and Mr. SMITH of Oregon) proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 335, insert the following:

''(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect until the President certifies to Congress that Cuba is not a state sponsor of international terrorism.''

SA 2597. Mr. TORRICELLI (for himself, Mr. NELSON of Florida, and Mr. LIEBERMAN) proposed an amendment to amendment SA 2596 proposed by Mr. SMITH of New Hampshire to the amendment SA 2471 submitted by Mr. SMITH of New Hampshire and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end, strike ''.'' and insert ''and until the President certifies to Congress that all convicted felons wanted by the Federal Bureau of Investigation who are currently living as fugitives in Cuba have been returned to the United States for incarceration.''.

SA 2598. Mr. MCCAIN (for himself, Mr. GRAMM, and Mr. KERRY) proposed an amendment to the bill S. 1731, to strengthen the safety net for agricultural procedures, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

At the end of this underlying bill, insert the following:

SEC. . MARKET NAME FOR CATFISH.

The term ''catfish'' shall be considered to be a common or usual name (or part thereof) for any fish in keeping with Food and Drug Administration procedures that follow scientific standards and market practices for establishing such names for the purposes of section 403 of the Federal Food, Drug, and Cosmetic Act, including with respect to the importation of such fish pursuant to section 801 of such Act.

SEC. . LABELING OF FISH AS CATFISH.

Section 755 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 is repealed.

SA 2599. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net of agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 164 and insert a period and the following:

SEC. 165. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PREVIOUSLY CROPPED LAND; FOOD STAMP PROGRAM FUNDING INCREASES.

(a) RESTRICTION.—Section 194 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 945) is amended to read as follows:

''SEC. 194. RESTRICTION OF COMMODITY AND CROP INSURANCE PAYMENTS, LOANS, AND BENEFITS TO PREVIOUSLY CROPPED LAND.

''(a) DEFINITION OF AGRICULTURAL COMMODITY.—In this section:

''(1) IN GENERAL.—The term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

''(2) EXCLUSIONS.—The term 'agricultural commodity' does not include forage, livestock, timber, forest or hay.

''(b) COMMODITIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, except as provided in paragraph (2), the Secretary shall not provide a payment, loan, or other benefit under this title to an owner or producer, with respect to land or a loan commodity planted or considered planted on land during a crop year unless the land has been planted, considered planted, or devoted to an agricultural commodity during —

''(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

''(B) at least 3 of the 10 crop years preceding the 2002 crop year.

''(2) CROP ROTATION.—Paragraph (1) shall not apply to an owner or producer, with respect to any agricultural commodity planted or considered planted, on land if the land—

''(A) has been planted, considered planted, or devoted to an agricultural commodity during at least 1 of the 20 crop years preceding the 2002 crop year; and

''(B) has been maintained using long-term crop rotation practices, as determined by the Secretary.

''(c) CROP INSURANCE.—Notwithstanding any provision of the Federal Crop Insurance Act (7 U.S.C.1501 et seq.), the Federal Crop Insurance Corporation shall not pay premium subsidies or administrative costs of a reinsured company for insurance regarding a crop insurance policy of a producer under that Act unless, the land that is covered by the insurance policy—

''(1) has been planted, considered planted, or devoted to an agricultural commodity during—

''(A) at least 1 of the 5 crop years preceding the 2002 crop year; or

''(B) at least 3 of the 10 crop years preceding the 2002 crop year; or

''(2)(A) has been planted, considered planted, or devoted to an agricultural commodity during at least 1 of the 20 crop years preceding the 2002 crop year; and

(B) has been maintained using long-term crop rotation practices, as determined by the Secretary.

''(d) CONSERVATION RESERVE LAND.—For purposes of this section, land that is enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C.3831 et seq.) shall be considered planted to an agricultural commodity.''.

(b) FOOD STAMP PROGRAM.—

(1) EXCLUSION OF LICENSED VEHICLES FROM FINANCIAL RESOURCES.—

(A) IN GENERAL.—Section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended by striking subparagraph (C) and inserting the following:

''(C) EXCLUDED VEHICLES.—Financial resources under this paragraph shall not include—

''(i) 1 licensed vehicle per household; and

''(ii) a vehicle (and any other property, real or personal, to the extent that the property is directly related to the maintenance or use of the vehicle) if the vehicle is—

''(I) used to produce earned income;

''(II) necessary for the transportation of a physically disabled household member; or

''(III) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.''.

(B) CONFORMING AMENDMENT.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (h).

(2) RESTORATION OF BENEFITS TO CERTAIN ELDERLY INDIVIDUALS.—Section 402(a)(2)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(I)) is amended by striking ''who'' and all that follows and inserting the following: ''who—

''(i) is lawfully residing in the United States; and

''(ii) is 65 years of age or older.''.

SA 2600. Mr. CARPER (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) REDUCTION IN HOLDING PERIOD.—

(1) IN GENERAL.—Section 1202(a) is amended by striking ''5 years'' and inserting ''3 years''.

(2) CONFORMING AMENDMENTS.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 are each amended by striking ''5 years'' and inserting ''3 years''.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Section 57(a) (relating to items of tax preference) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Section 53(d)(1)(B)(ii)(II) is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

SA 2601. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REVIEW OF STATE MEAT INSPECTION PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the goal of a safe and wholesome supply to meat and meat food products throughout the United States would be better served if a consistent set for requirements, established by the Federal Government, were applied to all meat and meat food products, whether produced under State inspection or Federal inspection;

(2) under such a system, State and Federal meat inspection programs would function together to create a seamless inspection system to ensure food safety and inspire consumer in the food supply in interstate commerce; and

(3) such a system would ensure the viability of State meat inspection programs, which should help to foster the viability of small establishments.

(b) IN GENERAL.—Not later than September 30, 2003, the Secretary of Agriculture shall conduct a comprehensive review of each State meat and poultry inspection program, which shall include—

(1) a determination of the effectiveness of the State program; and

(2) identification of changes that are necessary to enable the possible future transition to a State program of implementing a State meat and poultry inspection program that enforces the mandatory antemortem and postmortem inspection, reinspection, sanitation, sanitation, and related titles of the Federal Meat Inspection Act and the Poultry Products Inspection Act. (including the regulations, directives, notices, policy memoranda, and other regulatory requirements issued under those titles);

(c) COMMENT FROM INTERESTED PARTIES.—In designing the review described in subsection (a), the Secretary of Agriculture shall, to the maximum extent practicable, obtain comment from interested parties.

(d) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate on December 13, 2001, at 10 a.m., to conduct a hearing on ''Housing and Community Development Needs in America.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 13, 2001, at 3 p.m., to hold a hearing titled, ''Contributions of Central Asian Nations to the Campaign Against Terrorism.''

Agenda

Witnesses

Panel 1: The Honorable Elizabeth Jones, Assistant Secretary for European and Eurasian Affairs, U.S. State Department, Washington, DC. Additional witnesses to be announced.

Panel 2: Witnesses to be announced.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, December 13, 2001 at 9 a.m. to hold a hearing entitled ''Riding the Rails: How Secure is our Passenger and Transit Infrastructure?''

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet a conduct a markup on Thursday, December 13, 2001, at 10 a.m. in Dirksen Room 226.

Tentative Agenda

Nominations: Callie V. Granade to be U.S. District Court Judge for the Southern District of Alabama; Marcia S. Krieger to be U.S. District Court Judge for the District of Colorado; James C. Mahan to be U.S. District Court Judge for the District of Nevada; Philip R. Martinez to be U.S. District Court Judge for the Western District of Texas; C. Ashley Royal to be U.S. District Court Judge for the Middle District of Georgia; Michael Battle, to be U.S. attorney for the Western District of New York; Christopher J. Christie, to be U.S. attorney for the District of New Jersey; Harry E. Cummins, to be U.S. attorney, for the Eastern District of Arizona; David Preston York, to be U.S. attorney, for the Southern District of Alabama; Mauricio J. Tamargo to be Chair of the Foreign Claims Settlement Commission of the United States.

Bills: S. 1174, Children's Confinement Conditions Improvement Act of 2001 [Leahy/Hatch/Kennedy]; H.R. 1892, Family Sponsor Immigration Act of 2001; H.R. 2277, To provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors; H.R. 2278, To provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continously employed before applying for admission to the United States; H.R. 1840, to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees; H.R. 861, To make technical amendments to section 10 of title 9, United States Code; H.R. 2048, To require a report on the operations of the State Justice Institute.

Resolutions: S.J. Res. 8, A joint resolution designating 2002 as the ''Year of the Rose'' [Landrieu/Breaux/Lincoln/Bayh/Feinstein]; S.J. Res. 13, A joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette [Warner/Allen/Kerry/Breaux/Helms/Sessions/Roberts/Jeffords/Inhofe/Leahy].

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet to conduct a closed business meeting on Thursday, December 13, 2001 at 3:30 p.m.

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

SUBCOMMITTEE ON STRATEGIC

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 13, 2001, at 10 a.m., in open and closed session to receive testimony on the security of U.S. nuclear weapons and nuclear weapons facilities.

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

SUBCOMMITTEE ON STRATEGIC

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 13, 2001, at 2:30 p.m., in open and closed session to receive testimony on the security of U.S. nuclear weapons and nuclear weapons facilities.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet on Thursday, December 13, 2001, at 2 p.m. in Dirksen 226, to conduct a hearing on ''Protecting Our Homeland Against Terror: Building a New National Guard for the 21st Century.''

Panel I: Senator Christopher S. ''Kit'' Bond, Co-Chair, National Guard Caucus, United States Senate.

Panel II: Lieutenant General Frank G. Libutti (Retired), Special Assistant for Homeland Security, Office of the Secretary of Defense, United States Department of Defense; Lieutenant General Russell C. Davis, Chief, National Guard Bureau, Arlington, VA; Major General Richard C. Alexander (Retired), Executive Director, National Guard Association of the United States, Washington, DC; Major General Paul D. Monroe, Jr., Adjutant General, California National Guard, Sacramento, CA.

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

INCLUSION OF AFGHAN WOMEN IN INTERIM ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 191 submitted earlier today by Senators BOXER, BROWNBACK, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 191) expressing the sense of the Senate commending the inclusion of women in the Afghan Interim Administration and commending those who met at the historic Afghan Women's Summit for Democracy in Brussels.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The resolution (S. Res. 191) was agreed to.

The preamble was agreed to.

(The text of the resolution is printed in today's RECORD under ''Submitted Resolutions.'')

PARTICIPATION OF WOMEN IN ECONOMIC AND POLITICAL RECONSTRUCTION OF AFGHANISTAN

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 279, S. Con. Res. 86.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 86) expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 86) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 86

Whereas until 1996 women in Afghanistan enjoyed the right to be educated, work, vote, and hold elective office;

Whereas women served on the committee that drafted the Constitution of Afghanistan in 1964;

Whereas during the 1970s women were appointed to the Afghan ministries of education, health, and law;

Whereas in 1977 women comprised more than 15 percent of the Loya Jirga, the Afghan national legislative assembly;

Whereas during the war with the Soviet Union as many as 70 percent of the teachers, nurses, doctors, and small business owners in Afghanistan were women;

Whereas in 1996 the Taliban stripped the women of Afghanistan of their most basic human and political rights;

Whereas under Taliban rule women have become one of the most vulnerable groups in Afghanistan, accounting for 75 percent or more of all Afghan refugees;

Whereas a study conducted by Physicians for Human Rights and released in May 2001 indicates that more than 90 percent of Afghan men and women believe that women should have the right to receive an education, work, freely express themselves, enjoy legal protections, and participate in the government; and

Whereas restoring the human and political rights that were once enjoyed by Afghan women is essential to the long-term stability of a reconstructed Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a portion of the humanitarian assistance provided to Afghanistan should be targeted to Afghan women and their organizations;

(2) Afghan women from all ethnic groups in Afghanistan should be permitted to participate in the economic and political reconstruction of Afghanistan; and

(3) any constitution or legal structure of a reconstructed Afghanistan should guarantee the human and political rights of Afghan women.

PROMOTING SAFE AND STABLE FAMILIES AMENDMENTS OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 227, H.R. 2873.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2873) to extend and amend the program entitled Promoting Safe and Stable Families under title IV-B, subpart 2 of the Social Security Act, and to provide new authority to support programs for mentoring children of incarcerated parents; to amend the Foster Care Independent Living program under title IV-E of that Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, the Senate is passing the House bill to reauthorize the Safe and Stable Families Program. This is necessary action to protect funding that is fundamental for promoting adoptions and preventing child abuse and neglect. By acting today, the Senate can secure $1.5 billion over the next 5 years for vital priorities. It would be wrong to leave Washington without taking action to ensure long-term support for such vulnerable children.

Earlier this year, I joined with Senator MIKE DEWINE and a bipartisan group in introducing an even better legislative package to boldly expand this vital program. Our bill, which was based on President Bush's own proposal, would have increased the basic funding for the Safe and Stable Families Program from $305 million to $505 million of guaranteed annual funding. This would have provided an additional $1 billion over the next 5 years, including $60 million in funding for scholarships for teens aging out of foster care. It would also have provided authority to create a new program designed to mentor the children of prisoners. I truly wish we were moving the Senate bill today, but since that is not possible. I believe enacting the House bill is essential for the long-term security of this program.

The House version provides a 5-year reauthorization of the Safe and Stable Families Program. The House bill also authorizes scholarships for teens aging out of foster care and new programs for mentoring children of prisoners.

Thanks to the leadership of Senators HARKIN and SPECTER, there is a $70 million increase in this year's Senate Labor-HHS-Education Appropriations. That is good news for families who need adoption support services and prevention services. I am proud of this increase, and enormously grateful for the support and cooperation of the Appropriations Committees in both the House and Senate.

Throughout my years of legislative work on child welfare, I have worked hard to forge bipartisan compromise and consensus. I strongly believe that we must maintain such bipartisanship. The best news is that we have more money to provide more services to families next year. But the challenge remains for us to work and achieve the goals of the original Senate bill and President Bush's proposal. I remain

committed to this, and hope that this important step forward will help build the good will and bipartisanship necessary to deliver on all of our long-term goals in the years ahead.

I want to especially thank my primary cosponsor, Senator MIKE DEWINE, who has been a passionate leader on adoption and child welfare reform for many years. Senator DEWINE was a leader in 1997 on improving the reasonable efforts standards to ensure that a child's health, safety, and need for a permanent home are priorities. This change and others have helped reform the system and dramatically increase adoptions.

I also want to thank and recognize the strong bipartisan support from all of my Senate colleagues for our original bill, including Senators BINGAMAN, BOND, BREAUX, CHAFEE, COLLINS, CRAIG, DEWINE, GRAHAM, JOHNSON, KERRY, LANDRIEU, LEVIN, LIEBERMAN, LINCOLN, AND SNOWE.

In West Virginia, adoptions are increasing, thanks to both the reforms set in 1997 under the Adoption and Safe Families Act, and the new investments. My state needs increased funding to help develop local community-based programs, so our children can get needed services in their own communities and not be sent out-of-state, away from family, friends and familiar schools. I am proud of my State for its improvement, but we all understand much more must be done, in West Virginia and nationwide, for these vulnerable children who depend on our efforts.

Today's action provides a good foundation, but we must continue working in a bipartisan manner to build upon today's action, and achieve all of the goals we share.

Mr. BAUCUS. Mr. President, I rise in support of the Promoting Safe and Stable Families Amendments of 2001. This legislation continues our support for state efforts to reunify troubled families and to promote the adoption of children in foster care who are unable to return to their birth homes. It also authorizes additional educational assistance to former foster children in the Independent Living program. Abused and neglected children are among the most vulnerable of all the members of our society—it is important that we continue to look after their needs.

This proposal mirrors that made by the President. I thank him for his interest in this issue. It is an important part of being a compassionate leader, ensuring that federal efforts to assist abused and neglected children continue. It also contains a new proposal offered by the President, authorizing a new grant program to mentor the children of prisoners, a particularly disadvantaged group. I commend him for that idea.

Mr. REID. Mr. President, I ask unanimous consent the bill be read the third time, passed, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 2873) was read the third time and passed.

THE USE OF TRUST LAND AND RESOURCES OF THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 483, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 483) regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD at the appropriate place as if read.

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

The bill (H.R. 483) was read the third time and passed.

HONORING THE NATIONAL GUARD ON THE OCCASION OF ITS 365TH ANNIVERSARY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 93, submitted earlier today by Senators LEVIN, WARNER, and others.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 93) recognizing and honoring the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEVIN. Mr. President, I am privileged today to introduce a concurrent resolution recognizing and honoring the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the milita of the Massachusetts Bay Colony.

This resolution is cosponsored by all members of the Armed Services Committee, the Majority Leader, Senator DASCHLE, the Republican Leader, Senator LOTT, the co-chairs of the U.S. Senator National Guard Caucus, Senators LEAHY and BOND, and Senator ROCKEFELLER. I invite all other members to join with me in cosponsoring this concurrent resolution.

It is significant that we appropriately recognize the 365th anniversary of the National Guard, which serves our Nation 365 days a year. National Guardsmen and women respond to every crisis that affects American citizens, from natural disasters to terrorist attacks.

As one of the Members of Congress who visited the ruins of the World Trade Center just days after the September 11th attacks, I will never forget that Guardsmen were among the first to respond. More than 4,000 Army National Guardsmen from New York rushed to lower Manhattan to help to remove debris, rescue victims, treat the injured, and provide security. Today, National Guard personnel are flying combat patrols over American cities; they are providing security at our nation's airports, and they even provide security for us here on Capitol Hill. In my home state of Michigan, they stand guard at crossings along the Canadian border.

These citizen soldiers and airmen are indispensable to our Nation's security and to U.S. military operations. They have fought in every major American conflict since the colonial wars of the 17th century, and they are an integral part of all of our ongoing military operations today.

I know my colleagues join me in recognizing the many achievements of the National Guard on this historic day.

Mr. WARNER. Mr. President, I am delighted to join Chairman LEVIN and others in cosponsoring this resolution to honor the National Guard on the occasion of its 365th anniversary.

The men and women of today's National Guard have inherited a proud tradition of military service dating back to colonial days and extending throughout this Nation's history. Today, they are adding to this tradition. National Guard units are integrally involved in military operations in Bosnia, over Iraq, and against the al Qaeda terrorist network and the Taliban regime in Afghanistan. Our citizen soldiers and airmen are diligently performing their homeland security mission as part of Operation Noble Eagle. This service includes augmenting airport security operations at Virginia's nine commercial service airports.

No element of the National Guard has a prouder, more distinguished record of service that that of the Virginia National Guard. I need only mention the 29th Infantry Division and its superb service in the D-Day invasion at Normandy. In seven minutes that awful day, one company of that Division's 116th Infantry Regiment lost 96 percent of its fighting force. Twenty-six Bedford, Virginia, men went ashore. Nineteen were killed, including the company commander and first sergeant. Today, Guardsmen of that same unit are leading the U.S. sector's multinational Stabilization Force in Tuzla,

Bosnia. I was privileged to visit those Guardsmen in Bosnia over this past Thanksgiving week.

The National Guard is critically important to the national security of the United States, and that has never been more true than in the war against terrorism we are involved in today. We honor the commitment and sacrifies of the 458,400 citizen soldiers and airmen of the National Guard, their families, their employers, and their communities. I congratulate the National Guard, all its personnel, and particularly Major General Claude Williams, the Adjutant General of the Virginia National Guard, and all soldiers and airmen of the Virginia National Guard on this important milestone.

Mr. DAYTON. Mr. President, I rise today to acknowledge the 365th anniversary of a true American institution: The National Guard. Now, perhaps more than ever, it is fitting to pay a special anniversary tribute to our citizen-soldiers, the oldest of America's armed forces.

The National Guard dates back to the first Americans. Responsible for their own defense, the colonists drew on English military tradition and organized their able-bodied male citizens into militias.

These early colonial militias protected citizens from Indian attacks, foreign adversaries and eventually successfully waged our Nation's war for independence. Following independence, the framers of the Constitution empowered Congress to ''provide for organizing, arming, and disciplining the militia.'' Thus commenced the historic dual role of the National Guard as a state and a Federal force.

My home State of Minnesota formed a Territorial Enrolled Militia in 1850, and in April 1856 the first uniformed, volunteer company was formed in St. Paul. Called the Minnesota Pioneer Guards, it was a source of pride and inspired the subsequent formation of nine sister companies in St. Paul, St. Anthony, Minneapolis, and in river towns from Stillwater to Winona. From these roots grew the Minnesota National Guard on which we depend so greatly. Each State has a similar, distinguished inspirational story.

Throughout the 19th Century, the size of the regular U.S. Army was small. The militia provided the bulk of the troops during the Mexican War, the early months of the Civil War, and the Spanish-American War. The National Guard comprised 40 percent of American troops deployed in France during World War I. In World War II, National Guard units were among the first to deploy overseas and the first to fight. Following World War II, National Guard aviation units, some of them dating back to World War I, because the Air National Guard, the Nation's newest Reserve component.

September 11 ushered in a new chapter in the storied history of our heroes in the National Guard. We called on them to secure our Nations' most vital infrastructure from terrorists committed to evil and violence. They did not hesitate to leave their jobs and families to answer the call to protect the American freedoms we hold so dear.

Today the National Guard continues to provide the States' trained and ready units equipped to protect life and property at home. And it stands ready to defend the United States and its interests all over the globe. Whether called upon by governor or President, from the village streets of Bosnia, to the terminals of our own Minneapolis-St. Paul International Airport, our coworkers and neighbors in the National Guard continue to answer the call to defend freedom.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 93) was agreed to.

The preamble was agreed to.

(The text of the concurrent resolution with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

Mr. REID. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 1291).

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 1291) entitled ''An Act to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill'', with the following House amendment to Senate amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Education and Benefits Expansion Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

Sec. 101. Increase in rates of basic educational assistance under Montgomery GI Bill.
Sec. 102. Increase in rates of survivors' and dependents' educational assistance.
Sec. 103. Restoration of certain education benefits of individuals being ordered to active duty.
Sec. 104. Accelerated payments of educational assistance under Montgomery GI Bill for education leading to employment in high technology industry.
Sec. 105. Eligibility for Montgomery GI Bill benefits of certain additional Vietnam era veterans.
Sec. 106. Increase in maximum allowable annual Senior ROTC educational assistance for eligibility for benefits under the Montgomery GI Bill.
Sec. 107. Expansion of work-study opportunities.
Sec. 108. Eligibility for survivors' and dependents' educational assistance of spouses and surviving spouses of veterans with total service-connected disabilities.
Sec. 109. Expansion of special restorative training benefit to certain disabled spouses or surviving spouses.
Sec. 110. Inclusion of certain private technology entities in definition of educational institution.
Sec. 111. Distance education.

TITLE II—COMPENSATION AND PENSION PROVISIONS

Sec. 201. Modification and extension of authorities on presumption of service-connection for herbicide-related disabilities of Vietnam veterans.
Sec. 202. Payment of compensation for Persian Gulf War veterans with certain chronic disabilities.
Sec. 203. Preservation of service connection for undiagnosed illnesses to provide for participation in research projects by Persian Gulf War veterans.
Sec. 204. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.
Sec. 205. Extension of round-down requirement for compensation cost-of-living adjustments.
Sec. 206. Expansion of presumptions of permanent and total disability for veterans applying for nonservice-connected pension.
Sec. 207. Eligibility of veterans 65 years of age or older for veterans' pension benefits.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

Sec. 301. Authority to establish overseas veterans assistance offices to expand transition assistance.
Sec. 302. Timing of preseparation counseling.
Sec. 303. Improvement in education and training outreach services for separating servicemembers and veterans.
Sec. 304. Improvement of veterans outreach programs.

TITLE IV—HOUSING MATTERS

Sec. 401. Increase in home loan guaranty amount for construction and purchase of homes.
Sec. 402. Native American veteran housing loan pilot program.
Sec. 403. Modification of loan assumption notice requirement.
Sec. 404. Increase in assistance amount for specially adapted housing.
Sec. 405. Extension of other housing authorities.
Sec. 406. Clarifying amendment relating to eligibility of members of the Selected Reserve for housing loans.

TITLE V—OTHER MATTERS

Sec. 501. Increase in burial benefits.
Sec. 502. Government markers for marked graves at private cemeteries.
Sec. 503. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans.
Sec. 504. Extension of limitation on pension for certain recipients of medicaid-covered nursing home care.

Sec. 505. Prohibition on provision of certain benefits with respect to persons who are fugitive felons.
Sec. 506. Limitation on payment of compensation for veterans remaining incarcerated since October 7, 1980.
Sec. 507. Elimination of requirement for providing a copy of notice of appeal to the Secretary of Veterans Affairs.
Sec. 508. Increase in fiscal year limitation on number of veterans in programs of independent living services and assistance.
Sec. 509. Technical and clerical amendments.
TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS
Sec. 601. Facilitation of staggered terms of judges through temporary expansion of the Court.
Sec. 602. Repeal of requirement for written notice regarding acceptance of reappointment as condition to retirement from the Court.
Sec. 603. Termination of notice of disagreement as jurisdictional requirement for the Court.
Sec. 604. Registration fees.
Sec. 605. Administrative authorities.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

SEC. 101. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—(1) Paragraph (1) of section 3015(a) is amended to read as follows:

''(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

''(A) for months beginning on or after January 1, 2002, $800;

''(B) for months occurring during fiscal year 2003, $900;

''(C) for months occurring during fiscal year 2004, $985; and

''(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or''.

(2) Paragraph (1) of section 3015(b) is amended to read as follows:

''(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

''(A) for months beginning on or after January 1, 2002, $650;

''(B) for months occurring during fiscal year 2003, $732;

''(C) for months occurring during fiscal year 2004, $800; and

''(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or''.

(b) CPI ADJUSTMENT.—No adjustment in rates of educational assistance shall be made under section 3015(h) of title 38, United States Code, for fiscal years 2003 and 2004.

SEC. 102. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 is amended—

(1) in subsection (a)(1)—

(A) by striking ''$588'' and inserting ''$670'';

(B) by striking ''$441'' and inserting ''$503''; and

(C) by striking ''$294'' and inserting ''$335'';

(2) in subsection (a)(2), by striking ''$588'' and inserting ''$670'';

(3) in subsection (b), by striking ''$588'' and inserting ''$670''; and

(4) in subsection (c)(2)—

(A) by striking ''$475'' and inserting ''$541';

(B) by striking ''$356'' and inserting ''$406''; and

(C) by striking ''$238'' and inserting ''$271''.

(b) CORRESPONDENCE COURSES.—Section 3534(b) is amended by striking ''$588'' and inserting ''$670''.

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking ''$588'' and inserting ''$670''; and

(2) by striking ''$184'' each place it appears and inserting ''$210''.

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) is amended—

(1) by striking ''$428'' and inserting ''$488'';

(2) by striking ''$320'' and inserting ''$365'';

(3) by striking ''$212'' and inserting ''$242''; and

(4) by striking ''$107'' and inserting ''$122''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2002, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

SEC. 103. RESTORATION OF CERTAIN EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO ACTIVE DUTY.

(a) IN GENERAL.—Sections 3013(f)(2)(A), 3231(a)(5)(B)(i), and 3511(a)(2)(B)(i) are each amended by striking '', in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10;'' and inserting ''to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10;''.

(b) INCREASE IN CHAPTER 35 DELIMITING PERIOD.—Section 3512 is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this section, if an eligible person, during the delimiting period otherwise applicable to such person under this section, serves on active duty pursuant to an order to active duty issued under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, such person shall be granted an extension of such delimiting period for the length of time equal to the period of such active duty plus four months.''.

(c) APPLICATION TO CHAPTER 31.—(1) Section 3105 is amended by adding at the end the following new subsection:

''(e)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of a subsistence allowance and other assistance described in paragraph (2) shall not—

''(A) be charged against any entitlement of any veteran under this chapter; or

''(B) be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of allowance or assistance.

''(2) The payment of the subsistence allowance and other assistance referred to in paragraph (1) is the payment of such an allowance or assistance for the period described in paragraph (3) to a veteran for participation in a vocational rehabilitation program under this chapter if the Secretary finds that the veteran had to suspend or discontinue participation in such vocational rehabilitation program as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

''(3) The period for which, by reason of this subsection, a subsistence allowance and other assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall be the period of participation in the vocational rehabilitation program for which the veteran failed to receive credit or with respect to which the veteran lost training time, as determined by the Secretary.''.

(2) Section 3103 is amended by adding at the end the following new subsection:

''(e) In any case in which the Secretary has determined that a veteran was prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility otherwise prescribed in this section as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, such period of eligibility shall not run for the period of such active duty service plus four months.

(d) CONFORMING AMENDMENTS.—Sections 3013(f)(2)(B) and 3231(a)(5)(B)(ii) of such title are each amended by striking '', in connection with such War,''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 11, 2001.

SEC. 104. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.

(a) IN GENERAL.—(1) Chapter 30 is amended by inserting after section 3014 the following new section:

''§3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry

''(a) An individual described in subsection (b) who is entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

''(b) An individual described in this subsection is an individual who is—

''(1) enrolled in an approved program of education that leads to employment in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); and

''(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

''(c)(1) The amount of the accelerated payment of basic educational assistance made to an individual making an election under subsection (a) for a program of education shall be the lesser of—

''(A) the amount equal to 60 percent of the established charges for the program of education; or

''(B) the aggregate amount of basic educational assistance to which the individual remains entitled under this chapter at the time of the payment.

''(2) In this subsection, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

''(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''(3) The educational institution providing the program of education for which an accelerated payment of basic educational assistance allowance is elected by an individual under subsection (a) shall certify to the Secretary the

amount of the established charges for the program of education.

''(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution regarding—

''(1) the individual's enrollment in and pursuit of the program of education; and

''(2) the amount of the established charges for the program of education.

''(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the individual's entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

''(2) If the monthly rate of basic educational assistance allowance otherwise payable to an individual under section 3015 of this title increases during the enrollment period of a program of education for which an accelerated payment of basic educational assistance is made under this section, the charge to the individual's entitlement to basic educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the matter provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary.

''(f) The Secretary may not make an accelerated payment under this section for a program of education to an individual who has received an advance payment under section 3680(d) of this title for the same enrollment period.

''(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this section.''.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 3014 the following new item:

''3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry.''.

(b) RESTATEMENT AND ENHANCEMENT OF CERTAIN ADMINISTRATIVE AUTHORITIES.—Subsection (g) of section 3680 is amended to read as follows:

''DETERMINATION OF ENROLLMENT, PURSUIT, AND ATTENDANCE

''(g)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define with respect to an eligible veteran and eligible person the following:

''(A) Enrollment in a course or program of education or training.

''(B) Pursuit of a course or program of education or training.

''(C) Attendance at a course or program of education or training.

''(2) The Secretary may withhold payment of benefits to an eligible veteran or eligible person until the Secretary receives such proof as the Secretary may require of enrollment in and satisfactory pursuit of a program of education by the eligible veteran or eligible person. The Secretary shall adjust the payment withheld, when necessary, on the basis of the proof the Secretary receives.

''(3) In the case of an individual other than an individual described in paragraph (4), the Secretary may accept the individual's monthly certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

''(4) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual's certification of enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2002, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 105. ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.

(a) ACTIVE DUTY PROGRAM.—Section 3011(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by adding ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

''(C) as of December 31, 1989, was eligible for educational assistance benefits under chapter 34 of this title and—

''(i) was not on active duty on October 19, 1984;

''(ii) reenlists or reenters on a period of active duty on or after October 19, 1984; and

''(iii) on or after July 1, 1985, either—

''(I) serves at least three years of continuous active duty in the Armed Forces; or

''(II) is discharged or released from active duty (aa) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;''.

(b) SELECTED RESERVE PROGRAM.—Section 3012(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by adding ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

''(C) as of December 31, 1989, was eligible for educational assistance under chapter 34 of this title and—

''(i) was not on active duty on October 19, 1984;

''(ii) reenlists or reenters on a period of active duty on or after October 19, 1984; and

''(iii) on or after July 1, 1985—

''(I) serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

''(II) subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;''.

(c) TIME FOR USE OF ENTITLEMENT.—Section 3031 is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(3) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(C) or 3012(a)(1)(C) of this title, on the date of the enactment of this paragraph.''; and

(2) in subsection (e)(1), by striking ''section 3011(a)(1)(B) or 3012(a)(1)(B)'' and inserting ''section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C)''.

SEC. 106. INCREASE IN MAXIMUM ALLOWABLE ANNUAL SENIOR ROTC EDUCATIONAL ASSISTANCE FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL.

(a) IN GENERAL.—Sections 3011(c)(3)(B) and 3012(d)(3)(B) are each amended by striking ''$2,000'' and inserting ''$3,400''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months beginning after the date of the enactment of this Act.

SEC. 107. EXPANSION OF WORK-STUDY OPPORTUNITIES.

(a) FIVE-YEAR EXPANSION OF QUALIFYING WORK-STUDY ACTIVITIES.—Subsection (a) of section 3485 is amended to read as follows:

''(a)(1) Individuals utilized under the authority of subsection (b) shall be paid an additional educational assistance allowance (hereinafter in this section referred to as 'work-study allowance'). Such allowance shall be paid in return for an individual's entering into an agreement described in paragraph (3).

''(2) Such work-study allowance shall be paid in an amount equal to the product of—

''(A) the applicable hourly minimum wage; and

''(B) the number of hours worked during the applicable period.

''(3) An agreement described in this paragraph is an agreement of an individual to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with a qualifying work-study activity.

''(4) For the purposes of this section, the term 'qualifying work-study activity' means any of the following:

''(A) The outreach services program under subchapter II of chapter 77 of this title as carried out under the supervision of a Department employee or, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

''(B) The preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department.

''(C) The provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, including, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, the provision of such care to veterans in a State home for which payment is made under section 1741 of this title.

''(D) Any other activity of the Department as the Secretary determines appropriate.

''(E) In the case of an individual who is receiving educational assistance under chapter 1606 of title 10, an activity relating to the administration of that chapter at Department of Defense, Coast Guard, or National Guard facilities.

''(F) During the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, an

activity relating to the administration of a national cemetery or a State veterans' cemetery.

''(5) An individual may elect, in a manner prescribed by the Secretary, to be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual's agreement to perform the number of hours of work specified in the agreement (but not more than an amount equal to 50 times the applicable hourly minimum wage).

''(6) For the purposes of this subsection and subsection (e), the term 'applicable hourly minimum wages' means—

''(A) the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

''(B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in subparagraph (A) and the Secretary has made a determination to pay such higher wage.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 108. ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF SPOUSES AND SURVIVING SPOUSES OF VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES.

(a) DESIGNATION OF ELIGIBILITY.—Section 3501(a)(1)(D) is amended—

(1) by inserting ''(i)'' after ''(D)''; and

(2) by inserting ''(ii)'' after ''or''.

(b) RESTATEMENT AND EXPANSION OF TREATMENT OF USE OF ELIGIBILITY.—(1) Section 3511 is amended by adding at the end the following new subsection:

''(c) Any entitlement used by an eligible person as a result of eligibility under section 3501(a)(1)(A)(iii), 3501(a)(1)(C), or 3501(a)(1)(D)(i) of this title shall be deducted from any entitlement to which such person may subsequently be entitled under this chapter.''.

(2) Section 3512 is amended by striking subsection (g).

(c) DELIMITING PERIOD.—(1) Section 3511(a)(1) is amended by adding at the end the following new sentence: ''In no event may the aggregate educational assistance afforded to a spouse made eligible under both 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii) of this title exceed 45 months.''.

(2) Paragraph (1) of section 3512(b) is amended to read as follows:

''(1)(A) Except as provided in subparagraph (B), a person made eligible by subparagraph (B) or (D) of section 3501(a)(1) of this title may be afforded educational assistance under this chapter during the 10-year period beginning on the date (as determined by the Secretary) the person becomes an eligible person within the meaning of section 3501(a)(1)(B), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title. In the case of a surviving spouse made eligible by clause (ii) of section 3501(a)(1)(D) of this title, the 10-year period may not be reduced by any earlier period during which the person was eligible for educational assistance under this chapter as a spouse made eligible by clause (i) of that section.

''(B) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph may, subject to the Secretary's approval, elect a later beginning date for the 10-year period than would otherwise be applicable to the person under that subparagraph. The beginning date so elected may be any date between the beginning date determined for the person under subparagraph (A) and whichever of the following dates applies:

''(i) The date on which the Secretary notifies the veteran from whom eligibility is derived that the veteran has a service-connected total disability permanent in nature.

''(ii) The date on which the Secretary determines that the veteran from whom eligibility is derived died of a service-connected disability.''.

(3) Section 3512(b) is further amended by striking paragraph (3).

(4) The amendments made by this subsection shall apply with respect to any determination (whether administrative or judicial) of the eligibility of a spouse or surviving spouse for educational assistance under chapter 35 of title 38, United States Code, made on or after the date of the enactment of this Act, whether pursuant to an original claim for such assistance or pursuant to a reapplication or attempt to reopen or readjudicate a claim for such assistance.

SEC. 109. EXPANSION OF SPECIAL RESTORATIVE TRAINING BENEFIT TO CERTAIN DISABLED SPOUSES OR SURVIVING SPOUSES.

(a) IN GENERAL.—Section 3540 is amended by striking ''section 3501(a)(1)(A) of this title'' and inserting ''subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title''.

(b) CONFORMING AMENDMENTS.—(1) Section 3541(a) is amended in the matter preceding paragraph (1) by striking ''of the parent or guardian''.

(2) Section 3542(a) is amended—

(A) by striking ''the parent or guardian shall be entitled to receive on behalf of such person'' and inserting ''the eligible person shall be entitled to receive''; and

(B) by striking ''upon election by the parent or guardian of the eligible person'' and inserting ''upon election by the eligible person''.

(3) The second sentence of section 3543(a) is amended by striking ''the parent or guardian for the training provided to an eligible person'' and inserting ''for the training provided to the eligible person''.

(4) Section 3543 is amended by adding at the end the following new subsection:

''(c) In a case in which the Secretary authorizes training under section 3541(a) of this title on behalf of an eligible person, the parent or guardian shall be entitled—

''(1) to receive on behalf of the eligible person the special training allowance provided for under section 3542(a) of this title;

''(2) to elect an increase in the basic monthly allowance provided for under such section; and

''(3) to agree with the Secretary on the fair and reasonable amounts which may be charged under subsection (a).''.

SEC. 110. INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION.

(a) IN GENERAL.—Sections 3452(c) and 3501(a)(6) are each amended by adding at the end the following new sentence: ''Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in courses beginning on or after the date of the enactment of this Act.

SEC. 111. DISTANCE EDUCATION.

(a) IN GENERAL.—Subsection (a)(4) of section 3680A is amended—

(1) by inserting ''(A)'' after ''leading''; and

(2) by inserting before the period the following: '', or (B) to a certificate that reflects educational attainment offered by an institution of higher learning''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in independent study courses beginning on or after the date of the enactment of this Act.

TITLE II—COMPENSATION AND PENSION PROVISIONS

SEC. 201. MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM VETERANS.

(a) PRESUMPTIVE PERIOD FOR RESPIRATORY CANCERS.—(1)(A) Subparagraph (F) of subsection (a)(2) of section 1116 is amended by striking ''within 30 years'' and all that follows through ''May 7, 1975''.

(B) The amendment made by subparagraph (A) shall take effect January 1, 2002.

(2) The Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences, not later than six months after the date of the enactment of this Act, for the performance of a study to include a review of all available scientific literature on the effects of exposure to an herbicide agent containing dioxin on the development of respiratory cancers in humans and whether it is possible to identify a period of time after exposure to herbicides after which a presumption of service-connection for such exposure would not be warranted. Under the contract, the National Academy of Sciences shall submit a report to the Secretary setting forth its conclusions. The report shall be submitted not later than 18 months after the contract is entered into.

(3) For a period of six months beginning on the date of the receipt of the report of the National Academy of Sciences under paragraph (2), the Secretary may, if warranted by clear scientific evidence presented in the National Academy of Sciences report, initiate a rulemaking under which the Secretary would specify a limit on the number of years after a claimant's departure from Vietnam after which respiratory cancers would not be presumed to have been associated with the claimant's exposure to herbicides while serving in Vietnam. Any such limit under such a rule may not take effect until 120 days have passed after the publication of a final rule to impose such a limit.

(4)(A) Subject to subparagraphs (B) and (C), if the Secretary imposes such a limit under paragraph (3), that limit shall be effective only as to claims filed on or after the effective date of that limit.

(B) In the case of any veteran whose disability or death due to respiratory cancer is found by the Secretary to be service-connected under section 1116(a)(2)(F) of title 38, United States Code, as amended by paragraph (1), such disability or death shall remain service-connected for purposes of all provisions of law under such title notwithstanding the imposition, if any, of a time limit by the Secretary by rulemaking authorized under paragraph (3).

(C) Subaragraph (B) does not apply in a case in which—

(i) the original award of compensation or service connection was based on fraud; or

(ii) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

(b) PRESUMPTION THAT DIABETES MELLITUS (TYPE 2) IS SERVICE-CONNECTED.—Subsection (a)(2) of section 1116 is further amended by adding at the end the following new subparagraph:

''(H) Diabetes Mellitus (Type 2).''.

(c) PRESUMPTION OF EXPOSURE TO HERBICIDE AGENTS IN VIETNAM DURING VIETNAM ERA.—(1) Section 1116 is further amended—

(A) by transferring paragraph (3) of subsection (a) to the end of the section and redesignating such paragraph, as so transferred, as subsection (f);

(B) by redesignating paragraph (4) of subsection (a) as paragraph (3); and

(C) in subsection (f), as transferred and redesignated by subparagraph (A) of this paragraph—

(i) by striking ''For the purposes of this subsection, a veteran'' and inserting ''For purposes of establishing service connection for a disability or death resulting from exposure to a

herbicide agent, including a presumption of service-connection under this section, a veteran''; and

(ii) by striking ''and has a disease referred to in paragraph (1)(B) of this subsection''.

(2)(A) The heading of that section is amended to read as follows:

''§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam''.

(B) The item relating to that section in the table of sections at the beginning of chapter 11 is amended to read as follows:

''1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam.''.

(d) EXTENSION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Subsection (e) of such section is amended by striking ''10 years'' and all that follows through ''Agent Orange Act of 1991'' and inserting ''on September 30, 2015''.

(2) Section 3(i) of the Agent Orange Act of 1991 (38 U.S.C. 1116 note) is amended by striking ''10 years'' and all that follows and inserting ''on October 1, 2014.''.

SEC. 202. PAYMENT OF COMPENSATION FOR PERSIAN GULF WAR VETERANS WITH CERTAIN CHRONIC DISABILITIES.

(a) ILLNESSES THAT CANNOT BE CLEARLY DEFINED.—(1) Subsection (a) of section 1117 is amended to read as follows:

''(a)(1) The Secretary may pay compensation under this subchapter to a Persian Gulf veteran with a qualifying chronic disability that became manifest—

''(A) during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

''(B) to a degree of 10 percent or more during the presumptive period prescribed under subsection (b).

''(2) For purposes of this subsection, the term 'qualifying chronic disability' means a chronic disability resulting from any of the following (or any combination of any of the following):

''(A) An undiagnosed illness.

''(B) A medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms.

''(C) Any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection.''.

(2) Subsection (c)(1) of such section is amended—

(A) in the matter preceding subparagraph (A), by striking ''for an undiagnosed illness (or combination of undiagnosed illnesses)''; and

(B) in subparagraph (A), by striking ''for such illness (or combination of illnesses)''.

(b) SIGNS OR SYMPTOMS THAT MAY INDICATE UNDIAGNOSED ILLNESSES.—(1) Such section is further amended by adding at the end the following new subsection:

''(g) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness or a chronic multisymptom illness include the following:

''(1) Fatigue.

''(2) Unexplained rashes or other dermatological signs or symptoms.

''(3) Headache.

''(4) Muscle pain.

''(5) Joint pain.

''(6) Neurological signs and symptoms.

''(7) Neuropsychological signs or symptoms.

''(8) Signs or symptoms involving the upper or lower respiratory system.

''(9) Sleep disturbances.

''(10) Gastrointestinal signs or symptoms.

''(11) Cardiovascular signs or symptoms.

''(12) Abnormal weight loss.

''(13) Menstrual disorders.''.

(2) Section 1118(a) is amended by adding at the end the following new paragraph:

''(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(g) of this title.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on March 1, 2002.

(d) CLARIFICATION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Sections 1117(c)(2) and 1118(e) are each amended by striking ''10 years'' and all that follows through ''of 1998'' and inserting ''on September 30, 2011''.

(2) Section 1603(j) of the Persian Gulf War Veterans Act of 1998 (38 U.S.C. 1117 note) is amended by striking ''10 years'' and all that follows and inserting ''on October 1, 2010.''.

SEC. 203. PRESERVATION OF SERVICE CONNECTION FOR UNDIAGNOSED ILLNESSES TO PROVIDE FOR PARTICIPATION IN RESEARCH PROJECTS BY PERSIAN GULF WAR VETERANS.

(a) AUTHORITY FOR SECRETARY TO PROVIDE FOR PARTICIPATION WITHOUT LOSS OF BENEFITS.—Section 1117 is amended by adding after subsection (g), as added by section 202(b), the following new subsection:

''(h)(1) If the Secretary determines with respect to a medical research project sponsored by the Department that it is necessary for the conduct of the project that Persian Gulf veterans in receipt of compensation under this section or section 1118 of this title participate in the project without the possibility of loss of service connection under either such section, the Secretary shall provide that service connection granted under either such section for disability of a veteran who participated in the research project may not be terminated. Except as provided in paragraph (2), nothwithstanding any other provision of law any grant of service-connection protected under this subsection shall remain service-connected for purposes of all provisions of law under this title.

''(2) Paragraph (1) does not apply in a case in which—

''(A) the original award of compensation or service connection was based on fraud; or

''(B) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

''(3) The Secretary shall publish in the Federal Register a list of medical research projects sponsored by the Department for which service connection granted under this section or section 1118 of this title may not be terminated pursuant to paragraph (1).''.

(b) EFFECTIVE DATE.—The authority provided by subsection (h) of section 1117 of title 38, United States Code, as added by subsection (a), may be used by the Secretary of Veterans Affairs with respect to any medical research project of the Department of Veterans Affairs, whether commenced before, on, or after the date of the enactment of this Act.

SEC. 204. REPEAL OF LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT INSTITUTIONALIZED VETERANS.

(a) REPEAL.—Section 5503 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 1114(r) is amended by striking ''section 5503(e)'' and inserting ''section 5503(c)''.

(2) Section 5112 is amended by striking subsection (c).

SEC. 205. EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS.

Sections 1104(a) and 1303(a) are amended by striking ''2002'' and inserting ''2011''.

SEC. 206. EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NON-SERVICE-CONNECTED PENSION.

(a) IN GENERAL.—Section 1502(a) is amended by striking ''such a person'' and all that follows through the end of the subsection and inserting the following: ''such person is any of the following:

''(1) A patient in a nursing home for long-term care because of disability.

''(2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner.

''(3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person.

''(4) Suffering from—

''(A) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the person; or

''(B) any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 17, 2001.

SEC. 207. ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR VETERANS' PENSION BENEFITS.

(a) IN GENERAL.—(1) Subchapter II of chapter 15 is amended by inserting after section 1512 the following new section:

''§ 1513. Veterans 65 years of age and older

''(a) The Secretary shall pay to each veteran of a period of war who is 65 years of age or older and who meets the service requirements of section 1521 of this title (as prescribed in subsection (j) of that section) pension at the rates prescribed by 1521 of this title and under the conditions (other than the permanent and total disability requirement) applicable to pension paid under that section.

''(b) If a veteran is eligible for pension under both this section and section 1521 of this title, pension shall be paid to the veteran only under section 1521 of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1512 the following new item:

''1513. Veterans 65 years of age and older.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1521(f)(1) is amended by inserting ''or the age and service requirements prescribed in section 1513 of this title,'' after ''of this section,''.

(2) Section 1522(a) is amended by inserting ''1513 or'' after ''under section''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 17, 2001.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

SEC. 301. AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE.

Section 7723(a) is amended by inserting after the first sentence the following new sentence: ''The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense, determines to be necessary to carry out such purposes.''.

SEC. 302. TIMING OF PRESEPARATION COUNSELING.

(a) IN GENERAL.—(1) The first sentence of section 1142(a)(1) of title 10, United States Code, is amended to read as follows: ''Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces

whose discharge or release from active duty is anticipated as of a specific date.''.

(2) Such section is further amended by adding at the end the following new paragraphs:

''(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

''(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, preseparation counseling shall begin as soon as possible within the remaining period of service.

''(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member's first 180 days of active duty.

''(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.''.

(b) CONFORMING AMENDMENT.—The second sentence of section 1144(a)(1) of title 10, United States Code, is amended by striking ''during the 180-day period'' and all that follows and inserting ''within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide preseparation counseling to a member described in paragraph (4)(A) of such section.''.

SEC. 303. IMPROVEMENT IN EDUCATION AND TRAINING OUTREACH SERVICES FOR SEPARATING SERVICEMEMBERS AND VETERANS.

(a) PROVIDING OUTREACH THROUGH STATE APPROVING AGENCIES.—Section 3672(d) is amended by inserting ''and State approving agencies'' before ''shall actively promote the development of programs of training on the job''.

(b) ADDITIONAL DUTY.—Such section is further amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following new paragraph:

''(2) In conjunction with outreach services provided by the Secretary under chapter 77 of this title for education and training benefits, each State approving agency shall conduct outreach programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.''.

SEC. 304. IMPROVEMENT OF VETERANS OUTREACH PROGRAMS.

Section 7722(c) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following:

''(2) Whenever a veteran or dependent first applies for any benefit under laws administered by the Secretary (including a request for burial or related benefits or an application for life insurance proceeds), the Secretary shall provide to the veteran or dependent information concerning benefits and health care services under programs administered by the Secretary. Such information shall be provided not later than three months after the date of such application.''.

TITLE IV—HOUSING MATTERS

SEC. 401. INCREASE IN HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES.

Section 3703(a)(1) is amended by striking ''$50,750'' each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting ''$60,000''.

SEC. 402. NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM.

(a) EXTENSION OF PILOT PROGRAM.—Section 3761(c) is amended by striking ''December 31, 2001'' and inserting ''December 31, 2005''.

(b) AUTHORIZATION OF THE USE OF CERTAIN FEDERAL MEMORANDUMS OF UNDERSTANDING.—Section 3762(a)(1) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by striking ''and'' after the semicolon and inserting ''or''; and

(3) by adding at the end the following:

''(B) the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and''.

(c) EXTENSION OF ANNUAL REPORT.—Section 3762(j) is amended by striking ''2002'' and inserting ''2006''.

SEC. 403. MODIFICATION OF LOAN ASSUMPTION NOTICE REQUIREMENT.

Section 3714(d) is amended to read as follows:

''(d) With respect to a loan guaranteed, insured, or made under this chapter, the Secretary shall provide, by regulation, that at least one instrument evidencing either the loan or the mortgage or deed of trust therefor, shall conspicuously contain, in such form as the Secretary shall specify, a notice in substantially the following form: 'This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent'.''.

SEC. 404. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking ''$43,000'' and inserting ''$48,000''; and

(2) in subsection (b)(2), by striking ''$8,250'' and inserting ''$9,250''.

SEC. 405. EXTENSION OF OTHER HOUSING AUTHORITIES.

(a) HOUSING LOANS FOR MEMBERS OF THE SELECTED RESERVE.—Section 3702(a)(2)(E) is amended by striking ''September 30, 2007'' and inserting ''September 30, 2009''.

(b) ENHANCED LOAN ASSET SALE AUTHORITY.—Section 3720(h)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2011''.

(c) HOME LOAN FEE AUTHORITIES.—The table in section 3729(b)(2) is amended by striking ''October 1, 2008'' each place it appears and inserting ''October 1, 2011''.

(d) PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.—Section 3732(c)(11) is amended by striking ''October 1, 2008'' and inserting ''October 1, 2011''.

SEC. 406. CLARIFYING AMENDMENT RELATING TO ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE FOR HOUSING LOANS.

Section 3729(b)(4)(B) is amended by inserting before the period the following: ''who is eligible under section 3702(a)(2)(E) of this title''.

TITLE V—OTHER MATTERS

SEC. 501. INCREASE IN BURIAL BENEFITS.

(a) BURIAL AND FUNERAL EXPENSES.—(1) Clause (1) of section 2307 is amended by striking ''$1,500'' and inserting ''$2,000''.

(2) The amendment made by paragraph (1) shall apply to deaths occurring on or after September 11, 2001.

(b) PLOT ALLOWANCE.—(1) Section 2303(b) is amended by striking ''$150'' each place it appears and inserting ''$300''.

(2) The amendments made by paragraph (1) shall apply to deaths occurring on or after December 1, 2001.

SEC. 502. GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES.

(a) GOVERNMENT MARKER BENEFIT.—Section 2306 of title 38, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

''(d)(1) The Secretary shall furnish, when requested, an appropriate Government marker at the expense of the United States for the grave of an individual described in paragraph (2) or (5) of subsection (a) who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Such a marker may be furnished only if the individual making the request for the Government marker certifies to the Secretary that the marker will be placed on the grave for which the marker is requested.

''(2) Any marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located.

''(3) The authority to furnish a marker under this subsection expires on December 31, 2006.

''(4) Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the use of the authority under this subsection. The report shall include the following:

''(A) The rate of use of the benefit under this subsection, shown by fiscal year.

''(B) An assessment as to the extent to which markers furnished under this subsection are being delivered to cemeteries and placed on grave sites consistent with the provisions of this subsection.

''(C) The Secretary's recommendation for extension or repeal of the expiration date specified in paragraph (3).''.

(b) DESIGN OF MARKER.—Subsection (c) of such section is amended by striking ''subsection (a) or (b)'' and inserting ''subsection (a), (b), or (d)''.

(c) CROSS REFERENCE CORRECTION.—Subsection (a)(5) of such section is amended by striking ''chapter 67'' and inserting ''chapter 1223''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to markers for the graves of individuals dying on or after the date of the enactment of this Act.

SEC. 503. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) is amended by striking ''$8,000'' and inserting ''$9,000''.

SEC. 504. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Paragraph (7) of subsection (d) of section 5503, as redesignated by section 204(a), is amended by striking ''September 30, 2008'' and inserting ''September 30, 2011''.

SEC. 505. PROHIBITION ON PROVISION OF CERTAIN BENEFITS WITH RESPECT TO PERSONS WHO ARE FUGITIVE FELONS.

(a) PROHIBITION.—(1) Chapter 53 is amended by inserting after section 5313A the following new section:

''§5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons

''(a) A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon. A dependent of a veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran or such dependent is a fugitive felon.

''(b) For purposes of this section:

''(1) The term 'fugitive felon' means a person who is a fugitive by reason of—

''(A) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense,

or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

''(B) violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

''(2) The term 'felony' includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

''(3) The term 'dependent' means a spouse, surviving spouse, child, or dependent parent of a veteran.

''(c) A benefit specified in this subsection is a benefit under any of the following:

''(1) Chapter 11 of this title.

''(2) Chapter 13 of this title.

''(3) Chapter 15 of this title.

''(4) Chapter 17 of this title.

''(5) Chapter 19 of this title.

''(6) Chapter 30, 31, 32, 34, or 35 of this title.

''(7) Chapter 37 of this title.

''(d)(1) The Secretary shall furnish to any Federal, State, or local law enforcement official, upon the written request of such official, the most current address maintained by the Secretary of a person who is eligible for a benefit specified in subsection (c) if such official—

''(A) provides to the Secretary such information as the Secretary may require to fully identify the person;

''(B) identifies the person as being a fugitive felon; and

''(C) certifies to the Secretary that apprehending such person is within the official duties of such official.

''(2) The Secretary shall enter into memoranda of understanding with Federal law enforcement agencies, and may enter into agreements with State and local law enforcement agencies, for purposes of furnishing information to such agencies under paragraph (1).''.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 5313A the following new item:

''5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons.''.

(b) SENSE OF CONGRESS ON ENTRY INTO MEMORANDA OF UNDERSTANDING AND AGREEMENTS.—It is the sense of Congress that the memoranda of understanding and agreements referred to in section 5313B(d)(2) of title 38, United States Code (as added by subsection (a)), should be entered into as soon as practicable after the date of the enactment of this Act, but not later than six months after that date.

SEC. 506. LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980.

(a) LIMITATION.—Section 5313 of title 38, United States Code, other than subsection (d) of that section, shall apply with respect to the payment of compensation to or with respect to any veteran described in subsection (b).

(b) COVERED VETERANS.—A veteran described in this subsection is a veteran who is entitled to compensation and who—

(1) on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date; and

(2) remains so incarcerated for conviction of that felony as of the date of the enactment of this Act.

(c) EFFECTIVE DATE.—This section shall apply with respect to the payment of compensation for months beginning on or after the end of the 90-day period beginning on the date of the enactment of this Act.

(d) COMPENSATION DEFINED.—For purposes of this section, the term ''compensation'' has the meaning given that term in section 5313 of title 38, United States Code.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PROVIDING A COPY OF NOTICE OF APPEAL TO THE SECRETARY OF VETERANS AFFAIRS.

(a) REPEAL.—Section 7266 is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking ''(1)'' after ''(a)'';

(2) by redesignating paragraph (2) as subsection (b);

(3) by redesignating paragraph (3) as subsection (c) and redesignating subparagraphs (A) and (B) thereof as paragraphs (1) and (2); and

(4) by redesignating paragraph (4) as subsection (d) and by striking ''paragraph (3)(B)'' therein and inserting ''subsection (c)(2)''.

SEC. 508. INCREASE IN FISCAL YEAR LIMITATION ON NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) INCREASE IN LIMITATION.—Section 3120(e) is amended by striking ''five hundred'' and inserting ''2,500''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 30, 2001.

SEC. 509. TECHNICAL AND CLERICAL AMENDMENTS.

(a) REPEAL OF EXPIRED PROVISION.—(1) Section 712 is repealed.

(2) The table of sections at the beginning of chapter 7 is amended by striking the item relating to section 712.

(b) CORRECTION OF WORD OMISSION.—Section 1710B(c)(2)(B) is amended by inserting ''on'' before ''November 30, 1999''.

(c) REPEAL OF ERRONEOUS CROSS REFERENCE.—Section 1729B(b) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(d) CORRECTION OF CROSS REFERENCE.—Section 3695(a)(5) is amended by striking ''1610'' and inserting ''1611''.

(e) STYLISTIC CORRECTION.—Section 1001(a)(2) of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 38 U.S.C. 7721 note) is amended by striking ''and'' at the end of subparagraph (C).

(f) CORRECTION OF PREVIOUS AMENDMENT.—Effective November 30, 1999, and as if included therein as originally enacted, section 204(e)(3) of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1563) is amended by striking ''and inserting 'a';'' and inserting ''the first place it appears and inserting 'an';''.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SEC. 601. FACILITATION OF STAGGERED TERMS OF JUDGES THROUGH TEMPORARY EXPANSION OF THE COURT.

(a) IN GENERAL.—Section 7253 is amended by adding at the end the following new subsection:

''(h) TEMPORARY EXPANSION OF COURT.—(1) During the period from January 1, 2002, through August 15, 2005, the authorized number of judges of the Court specified in subsection (a) is increased by two.

''(2)(A) Of the two additional judges authorized by this subsection—

''(i) only one may be appointed pursuant to a nomination made in 2002; and

''(ii) only one may be appointed pursuant to a nomination made in 2003.

''(B) If a judge is not appointed under this subsection pursuant to a nomination made in 2002, a judge may be appointed under this subsection pursuant to a nomination made in 2004. If a judge is not appointed under this subsection pursuant to a nomination made in 2003, a judge may be appointed under this subsection pursuant to a nomination made in 2004. In either case, such an appointment may be made only pursuant to a nomination made before October 1, 2004.

''(3) The term of office and the eligibility for retirement of a judge appointed under this subsection, other than a judge described in paragraph (4), are governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Amendments of 1999 (title X of Public Law 106–117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

''(4) A judge of the Court as of the date of the enactment of this subsection who was appointed to the Court before January 1, 1991, may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section. The term of office of an incumbent judge who receives an appointment as described in the preceding sentence shall be 15 years, which includes any period remaining in the unexpired term of the judge. Any service following an appointment under this subsection shall be treated as though served as part of the original term of office of that judge on the Court.

''(5) Notwithstanding paragraph (1), an appointment may not be made to the Court if the appointment would result in there being more than seven judges on the Court who were appointed after January 1, 1997. For the purposes of this paragraph, a judge serving in recall status under section 7257 of this title shall be disregarded in counting the number of judges appointed to the Court after such date.''.

(b) STYLISTIC AMENDMENTS.—That section is further amended—

(1) in subsection (b), by inserting ''APPOINTMENT.—'' before ''The judges'';

(2) in subsection (c), by inserting ''TERM OF OFFICE.—'' before ''The term'';

(3) in subsection (f), by striking ''(f)(1)'' and inserting ''(f) REMOVAL.—(1)''; and

(4) in subsection (g), by striking ''(g)(1)'' and inserting ''(g) RULES.—(1)'.

SEC. 602. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF REAPPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT.

Section 7296(b)(2) is amended by striking the second sentence.

SEC. 603. TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR THE COURT.

(a) TERMINATION.—Section 402 of the Veterans' Judicial Review Act (division A of Public Law 100–687; 102 Stat. 4122; 38 U.S.C. 7251 note) is repealed.

(b) ATTORNEY FEES.—Section 403 of the Veterans' Judicial Review Act (102 Stat. 4122; 38 U.S.C. 5904 note) is repealed.

(c) CONSTRUCTION.—The repeal in subsection (a) may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

(d) APPLICABILITY.—The repeals made by subsections (a) and (b) shall apply to any appeal filed with the United States Court of Appeals for Veterans Claims—

(1) on or after the date of the enactment of this Act; or

(2) before the date of the enactment of this Act but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 604. REGISTRATION FEES.

(a) FEES FOR COURT-SPONSORED ACTIVITIES.—Subsection (a) of section 7285 is amended by adding at the end the following new sentence: ''The Court may also impose a registration fee on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title or in any other court-sponsored activity.''.

(b) USE OF FEES.—Subsection (b) of such section is amended by striking ''for the purposes of (1)'' and all that follows through the period and inserting ''for the following purposes:

''(1) Conducting investigations and proceedings, including employing independent counsel, to pursue disciplinary matters.

''(2) Defraying the expenses of—

''(A) judicial conferences convened pursuant to section 7286 of this title; and

''(B) other activities and programs of the Court that are intended to support and foster communication and relationships between the Court and persons practicing before the Court or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.''.

(c) CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows:

''§ 7285. Practice and registration fees''.

(2) The item relating to such section in the table of sections at the beginning of chapter 72 is amended to read as follows:

''7285. Practice and registration fees.''.

SEC. 605. ADMINISTRATIVE AUTHORITIES.

(a) IN GENERAL.—Subchapter III of chapter 72 is amended by inserting after section 7286 the following new section:

''§ 7287. Administration

''Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 7286 the following new item:

''7287. Administration.''.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge the Senate to pass H.R. 1291, the proposed ''Veterans Education and Benefits Expansion Act of 2001.''

The pending measure is the final compromise version of an omnibus bill that improves a wide variety of veterans benefits, such as the amount and flexibility of the Montgomery GI bill, enhances compensation to Gulf War veterans, as well as to Vietnam veterans with Agent Orange-related conditions, increases the VA home loan guaranty amount, extends VA's authority to provide home loans to Reservists and on Native American tribal land, and augments burial benefits. The key provisions are described in more detail below. I refer my colleagues seeking more detail to the Joint Explanatory Statement accompanying this statement.

H.R. 1291, which I will refer to as the ''compromise agreement,'' makes significant enhancements to educational benefits for veterans and their families. I thank my colleagues in the House for working with our committee staff to enhance the education benefits that help pay back veterans for the service they have given our Nation. Today's Montgomery GI bill, MGIB, provides a valuable recruitment and retention tool for the Armed Services. As a transition benefit, it allows veterans to gain the skills they need to adjust productively to civilian life when they return from service.

I am very pleased that the compromise bill, in section 101, will increase the MGIB basic monthly benefit to $800 per month beginning in January 2002, $900 in 2002, and $985 in 2003. I am even more proud that H.R. 1291 also takes the next step to keep pace with education needed for success in high-technology fields. As our colleagues know, many servicemembers leave the military with skills that place them in demand for careers in the technology sector. But even these veterans may require additional coursework to convert their military skills to civilian careers. Sections 104 and 110 of the committee bill will allow veterans to use their Montgomery GI bill educational benefits to pay for short-term, high technology courses that enable veterans to earn the credentials they need to gain entry to lucrative civilian-sector careers.

Currently, the MGIB provides a basic monthly benefit for education costs. This payment structure is designed to assist veterans pursuing traditional 4-year degrees at universities. However, in today's fast paced, high-tech economy, traditional degrees may not always be the best option. Many veterans are pursuing forms of nontraditional training, such as short-term courses that lead to certification in a technical field. In certain fields, these certifications are a prerequisite to employment.

These courses, such as Microsoft or Cisco systems training, may be offered through training centers, private contractors to community colleges, or the companies themselves. They often last just a few weeks or months, and can cost many thousands of dollars. The way MGIB is paid out in monthly disbursements is not suited to this course structure. For example, MGIB would pay less than $1,400 for a 2-month course that could cost as much as $10,000.

The percentage of veterans who actually use the MGIB benefits they have earned and paid for is startlingly low, 45 percent of eligible veterans, according to VA's Program Evaluation of the Montgomery GI bill published in April 2000, despite almost full enrollment in the program by servicemembers. By increasing the flexibility of the MGIB program, we will permit more veterans to take advantage of these benefits. This legislation gives veterans the right to choose the kind of educational program that will be best for them.

This legislation will modify the payment method to accommodate the compressed schedule of these courses. Specifically, section 104 allows veterans to receive an accelerated payment equal to 60 percent of the cost of the program. This is comparable to VA's MGIB benefit for flight training, for which VA reimburses 60 percent of the costs. The dollar value of the accelerated payment would then be deducted from the veteran's remaining entitlement. Section 110 allows courses offered by these providers to be covered by MGIB.

I am extremely proud that section 103 of this legislation will restore educational and vocational rehabilitation and training benefits for servicemembers and reservists who must leave their course of study to serve on active duty, such as military members called away to serve in connection with the current National Emergency declared in response to the events of September 11, 2001. This provision will amend a provision that restores such entitlements for servicemembers and reservists called to active duty for the Persian Gulf War. In 1997, Congress similarly expanded educational benefits restoration for the Selected Reserve Program.

Section 102 will increase the Dependent's Educational Allowance, DEA, for dependents and eligible spouses of veterans. Congress created this educational program in 1968 to provide educational opportunities to children whose education would be impeded or interrupted because of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces. In addition, surviving spouses of veterans who do not remarry are generally eligible for the educational allowance in order to assist them in preparing to support themselves and their families at the standard-of-living level that the veteran could have been expected to provide for his or her family but for the service-connected disability or death. Children and surviving spouses of servicemembers who are missing in action for 90 days, captured in the line of duty by a hostile force, or detained or interned by a foreign government, are also eligible for the educational allowance.

DEA is available for full-time, three-quarter time or half-time attendance at an institution of higher learning, for students taking correspondence courses, pursuing special restorative training, or apprenticeship training. The increase in DEA for full-time students would be to $670 from $608 on January 1, 2002, with no cost-of-living adjustment that year. The allowance for a three-quarter time student would increase to $503 from $456, and the allowance for half-time pursuit would increase to $335 from $304.

As many of my colleagues remember, questions about the long-term consequences of exposure to Agent Orange arose during the Vietnam War. Decades later, veterans of that war still await clear answers. A series of ongoing reviews by the National Academy of Sciences has helped to provide some of those answers, such as the potential link between exposure to chemicals in Agent Orange and respiratory cancers. The legislation before us would continue these scientific reviews, and extend the Secretary of Veterans Affairs' authority to act upon new scientific evidence.

Currently, Vietnam veterans can claim service-connected benefits for respiratory cancers, but only if those

cancers are diagnosed within 30 years of their Vietnam service. Section 201 would remove that time limit, which the last scientific review preliminarily found to be without clear basis. However, to ensure that this decision is based upon sound evidence, the provision also allows the Secretary to request a scientific review by NAS specifically addressing whether a time limit on manifestation of respiratory cancers is warranted, and to impose such a limit if supported by scientific findings. Should the Secretary's requested review result in a finding of a more restrictive latency period for manifestation of these respiratory cancers, the compromise agreement would ensure that the families and survivors of these veterans remain eligible for VA benefits. Finally, this bill also restores a VA presumption, eliminated by a Court decision, that all in-country Vietnam veterans were exposed to Agent Orange.

Following the Gulf War, returning troops began to report a range of unexplained illnesses that many attributed to their service, but that could not be linked conclusively to a specific battlefield hazard. In 1994, Congress passed the Persian Gulf War Veterans' Benefits Act, allowing the Secretary to compensate certain Gulf War veterans disabled by ''undiagnosed illnesses'' for which no other causes could be identified. The term ''undiagnosed illnesses'' has been interpreted by VA to preclude any veteran from eligibility who has received a diagnosis, even if that diagnosis is merely a descriptive label for a collection of unexplained symptoms. This legislation would authorize the Secretary to compensate an eligible Gulf War veteran disabled by a ''medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms,'' such as chronic fatigue syndrome or fibromyalgia. Rather than defining Gulf War illnesses, section 202 of this legislation would correct an unfair situation that penalizes Gulf War veterans whose physicians have embraced changes in medical terminology in the past decade.

Since 1933, there has been a prohibition on paying benefits to an incompetent veteran who has no dependents and who has assets of $1,500 or more, if the veteran is being provided institutional health care by the Government. Then, incompetent individuals might be institutionalized for years. It was believed that a large estate based on the veteran's benefits should not be allowed to build up just to pass to the state upon the veteran's death. Now, treatment modalities have changed and veterans are more likely to cycle in and out of treatment, which results in virtually constant suspension and reinstatement of their benefits.

Last year, in Public Law 106–419, Congress addressed this anomaly in law. Although we had hoped to fully eliminate the disparate and discriminatory treatment of incompetent veterans, due to cost restraints we were only able to raise the dollar amount of the cutoff to five times the 100 percent compensation rate. I am enormously proud that Section 204 would fully repeal the limitation on payment thereby ending decades of prejudice and discrimination against these veterans.

The committee bill also enhances and extends home loan programs. As most of our colleagues appreciate, VA does not provide a direct home loan for servicemembers and veterans. Instead, it provides a guaranty to mortgage lenders should the borrower veteran be unable to meet the payments and go into foreclosure. A VA guaranty allows a veteran to buy a home valued at up to four times the guaranty amount. The price of homes in major metropolitan areas has increased significantly in the last several years, yet the VA guaranty amount has not been increased since 1994. VA estimates that during fiscal year 2001, VA will have guaranteed 250,000 loans for veterans. Section 401 will increase the home loan guaranty amount to $60,000 from the current $50,750, supporting a loan of up to $240,000.

Section 403 will extend for 2 years the authority for housing loan guaranties for members of the Selected Reserve, currently set to expire in 2007. Reservists must serve 6 years in order to become eligible for a VA-guaranteed loan. In order for the home loan to be used as a recruiting incentive now, the benefit must be authorized beyond 6 years. It is especially appropriate that we recognize the importance of those who serve in the Selected Reserves as we rely on them yet again, in this time of national crisis.

In conclusion, I want to thank Senator SPECTER and his benefits staff, Bill Tuerk, Jon Towers, and Chris McNamee, for diligently working with me and my benefits staff, Bill Brew, Mary Schoelen, Julie Fischer, Bridget Baylin, Chris Reinard, and Dahlia Melendrez, to craft this legislation during this extraordinary year. I urge my colleagues to support these vital enhancements to veterans benefits. As has been the case in previous years and is particularly important in light of our country's current military actions, this truly represents a bipartisan commitment to our Nation's veterans.

I ask unanimous consent that the Joint Explanatory Statement be printed in the RECORD.

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

SUMMARY OF H.R. 1291, COMPROMISE AGREEMENT, THE VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

The Senate considered S. 1088, as amended, struck the existing text and incorporated it into H.R. 1291, then passed it by unanimous consent on December 7, 2001.

EDUCATION MATTERS

Increases the rate of the basic benefit of the Montgomery G.I. Bill (MGIB) from the current $672 per month to $800 per month beginning on January 1, 2002; $900 per month on October 1, 2002; and $985 per month on October 1, 2003.

Increases the Dependent's Educational Allowance to $670 from $608 for dependents and spouses of veterans who are totally disabled or who die as a result of a service-connected condition, effective January 1, 2002.

Restores lost educational and vocational rehabilitation benefits for servicemembers and reservists who must leave their course of study to serve on active duty, such as military members called away to serve in the current National Emergency.

Creates flexibility in the payment method for MGIB to partially pay for short-term/high tech courses. It would accelerate payment of up to 60 percent of the cost of an approved program that leads to employment in a high technology industry.

COMPENSATION AND PENSION MATTERS

Removes the arbitrary 30-year limit for manifestation of Agent Orange-related respiratory cancers in Vietnam veterans and tasks the National Academy of Sciences (NAS) to continue reviewing scientific evidence on effects of dioxin or herbicide exposure through October 1, 2014.

Extends authority of the VA to presume service connection for additional diseases as based on future NAS reports through September 30, 2015.

Codifies presumption that Type 2 diabetes in Vietnam veterans exposed to Agent Orange is service-connected.

Authorizes the Secretary to pay compensation to Gulf War veteran chronically disabled by a diagnosed, but medically unexplained multisymptom illness, such as chronic fatigue syndrome.

Allows the Secretary to protect the grant of service connection for an undiagnosed illness when a Persian Gulf War veteran participates in a VA-sponsored medical research project.

HOUSING MATTERS

Increases the VA home loan guaranty amount to $60,000 from the current $50,750. The VA guaranty amount has not been increased since 1994.

Extends the Native American veterans housing loan program, which allows loans on tribal lands for four years. Extends the authority for housing loan guaranties for members of the Selected Reserves for two years.

Increases the grant for specially adapted housing for severely disabled veterans to $48,000 from $43,000.

BURIAL MATTERS

Increases VA burial benefits for service-connected deaths of veterans from $1,500 to $2,000.

Allows VA to furnish a bronze marker to permanently commemorate the service of a veteran on an already marked grave in a private cemetery.

EXPLANATORY STATEMENT ON HOUSE AMENDMENT TO SENATE AMENDMENTS TO H.R. 1291

The House amendment to the Senate amendments to H.R. 1291 reflect a compromise agreement that the House and Senate Committees on Veterans' Affairs have reached on H.R. 801, H.R. 1291, H.R. 2540, H.R. 3240, and S. 1088. H.R. 801 passed the House on March 27, 2001. H.R. 1291 passed the House on June 19, 2001. H.R. 2540 passed the House on July 31, 2001. H.R. 3240 passed the House on November 13, 2001. The Senate considered S. 1088 (hereinafter known as the ''Senate bill'') on December 7, 2001. This measure was incorporated in H.R. 1291 as an amendment and passed the Senate by unanimous consent on December 7, 2001.

The House an Senate Committees on Veterans' Affairs have prepared the following explanation of H.R. 1291, as amended, (hereinafter referred to as the ''Compromise Agreement''). Differences between the provisions contained in the Compromise Agreement and the related provisions of H.R. 801,

H.R. 1291, H.R. 2540, H.R. 3240, and S. 1088 are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

Title I—Educational Assistance Provisions

INCREASES IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL

Current law

Section 3011 of title 38, United States Code, establishes basic educational assistance entitlement under the All-Volunteer Force Educational Assistance Program, commonly referred to as the Montgomery GI Bill or MGIB—Active Duty program. Section 3015 establishes the base amount of such educational assistance at the monthly rate of $528 for a 3-year period of service and $429 for a 2-year period of service. These amounts increased to $650 per month and $528 per month, respectively, on November 1, 2000. With the addition of a cost-of-living adjustment (COLA) on October 1, 2001, the rates are $672 and $546, respectively.

House bill

Section 2(a)(1) of H.R. 1291 would amend section 3015(a)(1) to increase the amount of educational benefits under the Montgomery GI Bill for an approved program of education on a full-time basis from the current monthly rate of $650 ($672 with (COLA) for an obligated period of active duty of 3 or more years to $800 effective October 1, 2001, $950 effective October 1, 2002, and $1,100 effective October 1, 2003.

Section 2(a)(2) of H.R. 1291 would amend section 3015(b)(1) of title 38, United States Code, to increase the amount of educational benefits for an obligated period of active duty of 2 years from the current monthly rate of $528 ($546 with COLA) to $650 effective October 1, 2001, $772 effective October 1, 2002, and $894 effective October 1, 2003.

Section 2(b) of H.R. 1291 would suspend the statutory annual adjustment in MGIB rates based on the Consumer Price Index beginning in fiscal year 2002 and reinstate that adjustment beginning in fiscal year 2005.

Senate bill

Section 101 of the Senate bill would increase the amount of educational benefits under the Montgomery GI Bill for veterans whose original service obligation was 3 or more years to $700 in fiscal year 2002, $800 in fiscal year 2003, and $950 in fiscal year 2004. For veterans whose original service obligation was 2 years, the monthly educational benefit would be increased to $569 in fiscal year 2002, $650 in fiscal year 2003, and $772 in fiscal year 2004.

Compromise agreement

Section 101 of the compromise agreement would increase the amount of educational benefits under the Montgomery GI Bill for an obligated period of active duty of 3 or more years to $800 effective January 1, 2002; $900 effective October 1, 2002; and $985 effective October 1, 2003. For service obligation of 2 years, increases are to $650 effective January 1, 2002; $732 effective October 1, 2002; and $800 effective October 1, 2003. The COLA is suspended for Fiscal Years 2003 and 2004.

INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Current law

Chapter 35 of title 38, United States Code, provides educational assistance to spouses and dependent children of veterans who are totally disabled or who die as a result of a service-connected condition. Eligible persons are paid at a monthly rate of $588, $441, and $294, respectively, for full, three-quarter, and half-time studies. The cost-of-living adjustment (COLA) furnished on October 1, 2001, increased these rates to $608, $456, and $304, respectively.

House bill

The House bills contain no comparable provision.

Senate bill

Section 106 of the Senate bill would increase the monthly amount of education benefits provided under chapter 35 of title 38, United States Code, for full-time students from $588 ($608 with the COLA) to $690, from $441 ($456 of COLA) to $517 for three-quarter time students, and from $294 ($306 with the COLA) to $345 for half-time students (rates in current law after cost-of-living adjustment). These increases would take effect October 1, 2001.

Compromise agreement

Section 102 of the compromise agreement would follow the language of the Senate bill, except that it would increase the monthly amount of education benefits provided to full-time students in traditional education programs, training in business or industry, correspondence courses or special restorative training from $608 to $670 on January 1, 2002. The compromise agreement would also include increases for on-job training, apprenticeship, and farm cooperative programs.

RESTORATION OF CERTAIN EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO ACTIVE DUTY

Current law

Sections 3013(f)(2), 3231(a)(5), and 3511(a)(2)(B)(i) of title 38, United States Code, provide that no educational allowance paid to servicemembers, reservists, or eligible dependents shall be counted against the total length or amount of their education entitlement if the pursuit of an educational objective was interrupted as a result of being ordered to serve in connection with the Persian Gulf War.

House bill

H.R. 3240 would restore entitlement under the Montgomery GI Bill (MGIB), Veterans' Educational Assistance Program (VEAP), and Survivors' and Dependents' Educational Assistance program (DEA) for any servicemembers, reservists, or DEA recipients called to active duty during Operation Enduring Freedom and at any time in the future.

Senate bill

Section 105 of the Senate bill would restore entitlement under the MGIB, VEAP, and Survivor's and DEA programs for any servicemembers, reservists, or DEA recipients called to active duty in connection with the National Emergency declared by the Presidential Proclamation dated September 14, 2001.

Compromise bill

Section 103 of the compromise agreement follows the House language and adds entitlement restoration for persons pursuing education or training under chapter 31 of title 38, United States Code. Further, the period during which the person may use his or her educational benefits under chapters 31 or 35 would be the period equal to the length of active service for which the person is recalled, plus four months.

ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY

Current law

Section 3014 of title 38, United States Code, provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments. Benefits are provided for each month in which the MGIB participant is certified to be participating in a course of study. If requested by a veteran, section 3680(d)(2) of title 38, United States Code, allows for an advance payment of educational assistance in an amount equivalent to the allowance for the month, or fraction thereof, in which pursuit of an education program will commence, plus the allowance for the succeeding month. This payment structure is geared primarily toward the pursuit of traditional two- and four-year degrees.

House bill

The House bills contain no comparable provision.

Senate bill

Section 103 of the Senate bill would further expand the Montgomery GI Bill benefit to accommodate a compressed schedule of courses leading to employment in a high technology industry by authorizing accelerated payment covering up to 60% of the cost of a high technology course, provided the cost of such course exceeds 200% of the monthly MGIB rate. This lump sum would be deducted from the veteran's remaining MGIB entitlement.

Compromise agreement

Section 104 of the compromise agreement follows the Senate language, effective October 1, 2002.

ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OR CERTAIN ADDITIONAL VIETNAM-ERA VETERANS

Current law

Section 3011 of title 38, United States Code, provides that a Vietnam-era veteran may convert his or her Vietnam-era GI Bill benefit to the Montgomery GI Bill educational benefit, if the veteran had eligibility for Vietnam-era GI Bill benefits as of December 31, 1989, was on active duty on October 19, 1984, and served 3 continuous years after June 30, 1985.

House bill

The House bills contain no comparable provision.

Senate bill

Section 104 of the Senate bill would enable Vietnam-era veterans to convert their Vietnam-era GI Bill benefits to Montgomery GI Bill benefits if the veteran had eligibility for the Vietnam-era GI Bill benefits as of December 31, 1989, was not on active duty on October 19, 1984, and served 3 continuous years in the Armed Forces on or after July 1, 1985.

Compromise agreement

Section 105 of the compromise agreement follows the Senate language.

INCREASE IN MAXIMUM ALLOWABLE ANNUAL ROTC AWARD FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL

Current law

Sections 3011(c)(3)(B) and 3012(d)(3)(B) of title 38, United States Code, provide that $2,000 is the maximum annual amount of a partial scholarship that a participant in the Senior Reserve Officers' Training Corps (SROTC) may receive and still be eligible for basic educational assistance entitlement for service on active duty under the Montgomery GI Bill educational assistance program.

House bill

Section 101 of H.R. 801 would increase from $2,000 to $3,400 per year the amount a student under SROTC may receive in scholarship assistance and still retain eligibility for the Montgomery GI Bill—Active Duty under chapter 30, of title 38, United States Code.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 106 of the compromise agreement follows the House language.

EXPANSION OF WORK-STUDY OPPORTUNITIES

Current law

Section 3485(a)(1) of title 38, United States Code, establishes work-study policies for veteran-students and eligible dependents. In general, VA work-study students may prepare or process VA paperwork at schools or VA facilities, provide care at VA hospitals and domiciliaries, or work at Department of Defense facilities in certain circumstances.

House bill

Section 102 of H.R. 801 would expand work-study opportunities for veteran-students and eligible dependents to include: outreach services furnished by State Approving Agencies to servicemembers and veterans; activities for veteran-students and/or dependents (who have declared an academic major) within the department of an academic discipline that complements and reinforces the program of education pursued by the veteran-student; and the provision of chapter 17 of title 38, United States Code, domiciliary care and nursing home and hospital care to veterans, including state veterans homes.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 107 of the compromise agreement follows the House language that excludes work-study opportunities within the department of the veteran-student's academic discipline, and adds additional work-study opportunities through national and state veterans cemeteries.

ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE BENEFITS OF SPOUSES AND SURVIVING SPOUSES OF VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES

Current law

Spouses of veterans who die of service-connected conditions, who are rated as totally and permanently disabled, or who die while rated as totally and permanently disabled, are eligible for Survivors' and Dependents' Educational Assistance (DEA) benefits. Prior to Ozer v. Principi, a 2001 decision by the U.S. Court of Appeals for Veterans Claims, 14 Vet. App. 257 (2001), VA applied a 10-year delimiting period during which spouses were eligible to use their DEA benefits. VA had been following regulations stating that the 10-year delimiting period began when eligibility is first established. However, the statute which authorized the DEA regulations prescribed that a spouse may not receive educational assistance beyond 10 years after the last occurrence of three eligibility criteria, one of which is the veteran's death. In its Ozer decision, the Court invalidated the VA regulation, reasoning that the delimiting period established by VA was in conflict with the authorizing statute.

House bill

The House bills contains no comparable provision.

Senate bill

Section 107 of the Senate bill would reinstate a 10-year delimiting period in which spouses may, upon first becoming eligible, use DEA benefits. Spouses made eligible for DEA under more than one of the eligibility criteria would have two separate 10-year delimiting periods in which to use their DEA benefits, but in no case would their aggregate entitlement exceed 45 months.

Compromise agreement

Section 108 of the compromise agreement follows the Senate language.

EXPANSION OF SPECIAL RESTORATIVE TRAINING BENEFIT TO CERTAIN DISABLED SPOUSES OR SURVIVING SPOUSES

Current law

Section 3541 of title 38, United States Code, provides that eligible children entitled to assistance under the Survivors' and Dependents' Educational Assistance program of chapter 35 may receive special restorative training to overcome or lessen the effects of a physical or mental disability and enable them to undertake a program of education.

House bill

Section 104 of H.R. 801 would expand the special restorative training benefit provided under the chapter 35 program to include certain disabled spouses or surviving spouses.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 109 of the compromise agreement follows the House language.

INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN THE DEFINITION OF EDUCATIONAL INSTITUTION

Current law

Section 3452(c) of title 38, United States Code, defines ''educational institution'' as any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, scientific or technical institution furnishing education for adults. Section 3501(a)(6) of title 38, United States Code, uses a substantively identical definition with the addition of any other institution if it furnishes education at the secondary school level or above.

House bill

Section 103 of H.R. 801 would expand the definition of an educational institution to include any private entity that offers, either directly or under an agreement with another entity, a course or courses to fulfill a requirement for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a technological occupation, as determined by the Secretary.

Senate bill

Section 105 of the Senate bill contains a substantively identical provision.

Compromise agreement

Section 110 of the compromise agreement follows the Senate language.

DISTANCE EDUCATION

Current law

Section 3680A(a)(4) of title 38, United States Code, limits the enrollment of an eligible veteran to an accredited independent study program (including open circuit television) leading to a standard college degree.

House bill

Section 105 of H.R. 801 would permit eligible veterans to receive VA education benefits while pursuing non college-degree courses that are offered through independent study by institutions of higher learning.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 111 of the compromise agreement follows the House language.

Title II—Compensation and Pension Provisions

MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM-ERA VETERANS

Current law

Under section 1116(a)(2)(F) of title 38, the presumption of service-connection with respect to respiratory cancers is limited to those cancers manifesting within 30 years of a servicemember's last active-duty date in Vietnam.

The CAVC decision in McCartt v. West, 12 Vet. App. 164 (1999) held that the Department of Veterans Affairs (VA) can only presume exposure to Agent Orange if the Vietnam veteran has one of the diseases listed as related to such exposure in 38 U.S.C. §1116(a) or 38 CFR §3.309(e). VA practice prior to this decision had been to presume exposure for anyone who had served in Vietnam during the statutorily defined period of war unless there was affirmative evidence to the contrary.

Section 1116 authorizes the Secretary of Veterans' Affairs to establish, through regulation, a presumption of service-connection for diseases associated with exposure to Agent Orange. The Secretary is further authorized to contract with the National Academy of Sciences for the purposes of studying the effects of dioxin, and is required to base the establishment of a presumption of service-connection on NAS findings. This authority commenced in 1993 and will expire at the end of Fiscal Year 2003.

House bill

Section 201 of H.R. 2540 codifies VA's July 9, 2001, regulation providing benefits for Vietnam veterans with Type 2 diabetes.

Senate bill

Section 201 of the Senate bill would remove the 30-year limitation on the manifestation of respiratory cancer. This section would also change the result of the CAVC decision in McCartt by requiring VA to presume exposure to Agent Orange for all persons serving in Vietnam during the statutorily defined period of that conflict.

Section 201 would extend the Secretary's authority to determine a presumption of service-connection for additional diseases; based on future NAS Reports, through 2011. VA's authority to contract with the NAS to review scientific evidence on the effects of dioxin or herbicide exposure would be extended through 2011.

Compromise agreement

Section 201(a)(1) of the compromise agreement follows the Senate language, but modifies the effective date for subsection (a) of the Senate bill to January 1, 2002. Section 201(a)(2) of the compromise directs the Secretary to enter into a contract with the National Academy of Sciences specifically to review available scientific literature on exposure to herbicides and dioxin and the development of respiratory cancers. Section 201(a)(3) allows the Secretary to consider whether an upper limit on manifestation of respiratory cancers can be supported, and to impose such a limit by regulation if warranted, by available scientific evidence. Section 201(4) protects a grant of service-connection made under this section for purposes of all benefits administered by the Secretary; section 201(b) of the compromise agreement provides a statutory presumption of service-connection of Diabetes Type 2 for veterans exposed to Agent Orange and follows the House language; section 201(c) of the compromise agreement presumes that veterans who served in the Republic of Vietnam during the time period when herbicides were used were exposed to herbicides and follows

the Senate language; and section 201(d) of the compromise agreement extends the Secretary's authority to contract with NAS through October 1, 2014, and extends the Secretary's authority to determine a presumption of service-connection through September 30, 2015.

PAYMENT OF COMPENSATION FOR PERSIAN GULF WAR VETERANS WITH CERTAIN CHRONIC DISABILITIES

Current law

Public Law 103–446 gave the Secretary the authority to compensate a Gulf War veteran who suffers from disabilities that cannot be diagnosed or clearly defined, when other causes cannot be identified. Section 1117 of title 38, United States Code, sets forth parameters for compensating disabilities occurring in Gulf War veterans.

House bill

Section 202 of H.R. 2540 would expand, effective April 1, 2002, the definition of ''undiagnosed illness'' for Gulf War veterans to include fibromyalgia, chronic fatigue syndrome, and chronic multisymptom illness, as well as other illnesses that cannot be clearly defined. Signs and symptoms listed in the House bill that are associated with an undiagnosed illness include headache, muscle pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, and/or menstrual disorders.

Senate bill

Section 202(b) of the Senate bill would expand the definition of ''undiagnosed illness'' by adding poorly defined chronic multisymptom illnesses of unknown etiology, regardless of diagnosis, characterized by two or more of the symptoms already listed in VA regulations. This section would also extend the presumptive period for service connection for Gulf War veterans by 10 years.

Compromise agreement

Section 202 of the compromise agreement authorizes the Secretary effective March 1, 2002, to pay compensation to any eligible Gulf War veteran chronically disabled by an ''undiagnosed illness,'' a ''medically unexplainable chronic multisymptom illness defined by a cluster of signs or symptoms,'' or ''any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection'' (or any combination of these). The term ''undiagnosed illnesses'' has been interpreted by VA to preclude from eligibility for benefits under sections 1117 or 1118 of title 38, United States Code, any veteran who has received a diagnosis, even if that diagnosis is merely a descriptive label for a collection of unexplained symptoms. This provision's addition of ''medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms'' to the list of compensable conditions fully implements the intent of Public Law 103–446. Public Law 103–446 authorized the Secretary to compensate certain Gulf War veterans disabled by symptoms that could not be connected conclusively to specific wartime exposures otherwise not compensable under other existing statutory bases.

In selecting this language, it is the intent of the Committees to ensure eligibility for chronically disabled Gulf War veterans not withstanding a diagnostic label by a clinician in the absence of conclusive pathophysiology or etiology. The compromise agreement's definition encompasses a variety of unexplained clinical conditions, characterized by overlapping symptoms and signs, that share features such as fatigue, pain, disability out of proportion to physical findings, and inconsistent demonstration of laboratory abnormalities. Aaron and Buchwald, A Review of the Evidence for Overlap Among Unexplained Clinical Conditions, 134(9) Annals of Internal Med:868–880 (2001). Although chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome are the most common diagnoses under this definition, other conditions that may be characterized similarly include other chronic musculoskeletal pain disorders and chronic headache disorders.

By listing the first three diagnoses as examples, it is the Committees' intend to give guidance to the Secretary rather than to limit eligibility for compensation based upon other similarly described conditions that may be defined or redefined in the future. The Committees do not intent this definition to assert that the cited syndromes can be clinically or scientifically linked to Gulf War service based on current evidence, nor do they intend to include chronic multisymptom illnesses of partially understood etiology and pathophysiology such as diabetes or multiple sclerosis.

In evaluating chronic multisymptom illnesses, the Committees expect that VA will develop a schedule for rating disabilities based on severity of symptoms and the degree to which these impair a veteran's ability to obtain and retain substantially gainful employment. The ratings schedule already established by VA in section 4.88b of 38 CFR (6354) for chronic fatigue syndrome bases the degree of disability on the veteran's incapacitation rather than specific medical findings. This schedule can be used as a model for rating disabilities stemming from chronic multisymptom illnesses in general.

The compromise agreement includes a technical correction substituting a date certain of October 1, 2010, for ''10 years after the last day of the fiscal year in which the National Academy of Sciences (NAS) submits the first report'' as written under current law in section 1603(j) of the Persian Gulf War Veterans Act of 1998. This provision requires the Secretary to contract with the NAS for five biennial reports on Gulf War health issues. The compromise also amends sections 1117 and 1118 of title 38, United States Code, to clarify that the authority of the Secretary to determine that a disease warrants presumptive service-connection based on these NAS reports continuing through September 30, 2011.

PRESERVATION OF SERVICE CONNECTION FOR UNDIAGNOSED ILLNESSES TO PROVIDE FOR PARTICIPATION IN RESEARCH PROJECTS BY GULF WAR VETERANS

Current law

Under current law, the Secretary does not have specific authority to protect a Persian Gulf War veteran's grant of service connection for an undiagnosed illness if, as a result of participating in a medical research study, the condition is diagnosed.

House bill

Section 203 of H.R. 2540 would authorize the Secretary to protect the grant of service connection for an undiagnosed illness when a Persian Gulf War veteran participates in a VA-sponsored medical research project. The Secretary would be required to publish in the Federal Register any medical research project whose participants would be protected under this section. The Secretary's authority extends to research projects commenced before, on or after date of enactment.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 203 of the compromise agreement protects veterans participating in medical research projects sponsored by the Department from loss of service-connection if the Secretary determines that such protection is necessary for conduct of the medical research. The Secretary is required to publish in the Federal Register a list of medical research projects sponsored by the Department for which service-connection is protected under this section.

REPEAL OF THE LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT VETERANS

Current law

Subsections (b) and (c) of section 5503 of title 38, United States Code, establishes that compensation and pension benefits cannot be issued to an incompetent, institutionalized veteran with no dependents whose assets exceed five times the 100-percent compensation rate. Public Law 106–419 raised the dollar amount of the cutoff from $1,500 to its present level.

House bill

The House bills contain no comparable provision.

Senate bill

Section 209 of the Senate bill would repeal the asset limitation on payment of benefits to incompetent institutionalized veterans who have no dependents.

Compromise agreement

Section 204 of the compromise agreement follows the Senate language.

EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS

Current law

Under sections 1104 and 1303 of title 38, United States Code, the Secretary has the authority to round down to the next lower whole dollar amount in the computation of cost-of-living adjustments through fiscal year 2002.

House bill

The House bills contain no comparable provision.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 205 of the compromise agreement extends the Secretary's authority to round down to the next lower whole dollar amount the computation of cost-of-living adjustments through Fiscal Year 2011.

EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NONSERVICE-CONNECTED PENSION

Current law

Under section 1502(a) of title 38, United States Codes, applicants for nonservice-connected pensions are considered to be totally and permanently disabled if they are unemployable, unable to follow a gainful occupation, or determined by the Secretary to be totally and permanently disabled. It is the Committees' understanding that VA regional office directors have been verbally instructed to implement a policy of presuming permanent and total disability for veterans who are patients in nursing homes for long-term care, or veterans determined permanently disabled by the Social Security Administration.

House bill

The House bills contain no comparable provision.

Senate bill

Section 203 of the Senate bill would presume that veterans who are in nursing

homes for long-term care; are determined to be permanently disabled by the Social Security Administration (SSA); are at least 65 years old and have no current, recurring income from employment; or are unemployable as a result of a disability reasonably certain to continue throughout life, are permanently and totally disabled for purposes of nonservice-connected pension. This provision would be made retroactive to September 10, 2001.

Compromise agreement

According to information provided to the Committees, VA has recently instructed its employees to adjudicate pension claims for veterans who are patients in long-term care facilities or who have been determined to be permanently disabled by the Social Security Administration without requiring a VA determination of disability. The Committees express their strong disapproval of the verbal manner in which the policy changes concerning evaluation of disability for patients in long-term care and those determined disabled by SSA were implemented. Verbally advising VA regional office directors to implement major policy changes without issuing either formal regulations or written guidance invites misinterpretation and confusion. The Committees strongly urge the Secretary to communicate all interpretative changes to policy in writing to appropriate officials, to make such instructions available to the public, and to comply with the notice and comment requirements of the Administrative Procedures Act for all substantive rules.

Section 206(a)(1) of the compromise agreement provides specific statutory authority for the evidentiary presumption verbally communicated to regional office directors for determining the eligibility of patients in a nursing home for long-term care to be disabled for purposes of pension benefits. The compromise agreement follows the Senate language and provides for an effective date of September 17, 2001, the date VA regional offices are believed to have implemented this policy.

Section 206(a)(2) of the compromise agreement provides that persons who have been determined disabled by the Social Security Administration (SSA) will be considered disabled for purposes of pension benefits. Since the Committees believe that a SSA disability determination is an appropriate evidentiary basis for considering a veteran disabled, the compromise agreement considers a veteran disabled if SSA has made a determination of disability. The bill provides for an effective date of September 17, 2001, the date VA regional offices are believed to have implemented this policy.

Section 206(a)(3) of the compromise agreement provides that a person shall be considered disabled if the veteran is unemployable as a result of disability reasonably certain to continue throughout the life of the person. The compromise agreement follows the Senate language.

Section 206(a)(4) restates provisions currently contained in section 1502(a)(1) and (2) of current law. The compromise agreement follows the Senate language.

ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR VETERANS' PENSION BENEFITS

Current law

Public Law 90–77 provided that a veteran is presumed disabled for purposes of pension benefits at age 65. Public Law 101–508 revoked the Secretary's authority to presume that a veteran was disabled for purposes of pension benefits at age 65. Although the Secretary lacks statutory authority to presume disability at age 65, it is the Committees' understanding that VA regional office directors were verbally instructed to implement a policy of presuming disability for pension applicants aged 65 and older.

House bill

The House bills contain no comparable provision.

Senate bill

Section 203(a)(3) of the Senate bill would restore the presumption of disability for purposes of pension eligibility at age 65 for veterans who based on evidence available to the Secretary have no current recurring income from employment.

Compromise agreement

According to information provided to the Committees, VA has recently instructed its employees to adjudicate pension claims for veterans who are aged 65 or older and who have no wages from employment without requiring a VA determination of disability. The Committees express their strong disapproval of the Secretary's decision to ignore the requirements of Public Law 101–508 prohibiting a presumption of disability for purposes of pension eligibility at age 65 by verbally reinstating the policy. when the Secretary believes that legislation passed by Congress and enacted into law is unwise or administratively inefficient, it is the Secretary's responsibility to propose appropriate legislation to the Congress so that the problem identified can be corrected. Verbally instructing VA regional office directors to ignore statutory requirements and to presume that veterans are disabled at age 65 without authorizing legislation violates current law. The Committees expect the Secretary to advise Congress of any statutory provisions, which in the judgment of the Secretary are detrimental to caring for our Nation's veterans, and to transmit appropriate corrective legislative proposals for consideration.

Section 207 of the compromise agreement provides that a pension will be provided to wartime veterans aged 65 and older without regard to disability. These veterans must still meet the nondisability requirements of section 1521 of title 38, United States Code, such as income and net worth. In determining that benefits will be provided at age 65 without regard to employment status, the Committees noted that any veteran employed full-time and receiving at least a minimum wage would not qualify for pension based on the pension income limitation.

Nonetheless, the Committees agree that a policy of requiring proof of disability for an aged wartime veteran with incomes below the pension benefit amount involves use of scarce agency resources without a commensurate return. The Committees have determined that aged wartime veterans should be provided a needs-based pension under conditions similar to that provided for veterans of the Indian Wars and the Spanish-American War. The compromise agreement renders a wartime veteran eligible for a needs-based pension upon attaining age 65 effective September 17, 2001, the date VA regional offices are believed to have implemented a policy of providing a presumption of disability for wartime veterans aged 65 and older.

Title III—Transition and Outreach Provisions

AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE

Current law

Sections 7722, 7723 and 7724 of title 38, United States Code, set forth VA's responsibilities with respect to outreach services, including outreach provided to separating servicemembers and eligible dependents. These sections do not specifically provide for the establishment and maintenance of veterans' assistance offices on military installations outside of the United States, its territorial possessions, or the Commonwealth of Puerto Rico. Through a funding arrangement with the Department of Defense, VA currently assigns representatives overseas on a rotational basis in a number of locations with large military populations.

House bill

Section 201(a) of H.R. 801 would amend section 7723(a) of title 38, United States Code, to give the Secretary specific discretionary authority to establish veterans' assistance offices on such military installations in other locations as the Secretary determines necessary. In doing so, the Secretary would be required to consult with the Secretary of Defense.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 301 of the compromise agreement follows the House language.

TIMING OF PREPARATION COUNSELING

Current law

The Departments of Defense, Veterans Affairs, and Labor assist separating servicemembers with benefits and services to facilitate a successful transition to civilian life. Currently, section 1142(a)(1) of title 10, United States code, requires that preseparation counseling begin not less than 90 days prior to discharge or release.

House bill

Section 202 of H.R. 801 would change the timing of preseparation counseling to begin as soon as possible during the 24-month period preceding an anticipated retirement and as soon as possible during the 12-month period preceding other separations, but in no event later than 90 days before the date of discharge or release. In case of an unanticipated retirement or other separation with 90 days fewer prior to separation, preseparation counseling shall begin as soon as possible within the remaining period of service. Except in the case of a servicemember who is being retired or separated for a disability, the Secretary concerned would not be permitted to provide preseparation counseling to a servicemember who is being discharged or released before the completion of that servicemember's first 180 days of active duty service.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 302 of the compromise agreement follows the House language.

IMPROVEMENT IN EDUCATION AND TRAINING OUTREACH SERVICES FOR SEPARATING SERVICEMEMBERS AND VETERANS

Current law

Section 3672(d) of title 38, United States Code, requires that the Secretary of Veterans Affairs actively promote the development of programs for purposes of section 3677 (on the job training) and section 3687 (apprenticeship or other on-job training).

House bill

Section 203 of H.R. 801 would require that State Approving Agencies (SAA), in addition to the Secretary, actively promote the development of VA programs of training on the job (including programs of apprenticeship) under chapter 36 of title 38, United States Code. Section 203 would also require SAAs, in conjunction with outreach services furnished by the Secretary for education and training benefits under chapter 77 of title 38,

United States Code, to conduct programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 303 of the compromise agreement follows the House language.

IMPROVEMENT OF VETERANS OUTREACH PROGRAMS

Current law

Section 7722(c) of title 38, United States Code requires the Secretary to distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Department and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) that the Secretary determines would be beneficial to veterans.

House bill

Section 205 of H.R. 801 would require VA, whenever a veteran or dependent first applies for any benefit (including a request for burial or related benefits or on application for life insurance proceeds), to provide information concerning all benefits and health services under programs administered by the Secretary.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 304 of the compromise agreement follows the House language with a modification that the Secretary provides the information within 3 months of the veteran or dependent making an initial contact with VA.

Title IV—Housing Matters

INCREASE OF THE VA HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES

Current law

Under section 3703 of title 38, United States Code, VA currently provides a guaranty of up to $50,750 on home mortgage loans issued to eligible veterans by private lenders.

House bill

The House bills contain no comparable provision.

Senate bill

Section 301 of the Senate bill would increase the maximum home mortgage loan guaranty amount to $63,175.

Compromise agreement

Section 401 of the compromise agreement would increase the maximum home mortgage loan guaranty amount to $60,000.

NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

Current law

Section 3761 of title 38, United States Code, established a pilot program whereby the Secretary may make direct housing loans to Native American veterans to permit such veterans to purchase, construct, or improve dwellings on trust land. The pilot program expires on December 31, 2001.

Current law requires a tribe to enter into a Memorandum of Understanding (MOU) with VA before VA can make home loans to member of that tribe.

House bill

Section 404(a) of H.R. 2540 would extend to December 31, 2005, VA's direct loan program for Native American veterans living on trust lands. Section 404(b) would amend section 3762(a)(1) of title 38, United States Code, to permit VA to make a direct housing loan to a member of a Native American tribe that has entered into an MOU with another federal agency if that MOU generally conforms to the requirements of VA's program.

Senate bill

Section 302 of the Senate bill extends the Native American veterans housing loan program to December 31, 2005. It also extends the requirement of an annual report under section 3762(j) through 2006.

Compromise agreement

Section 402 of the compromise agreement follows the House language with the addition of the reporting requirement until 2006.

MODIFICATION OF LOAN ASSUMPTION NOTICE REQUIREMENT

Current law

Section 3714(d) of title 38, United States Code, requires that all VA loans and security instruments contain on the first page in letters two and one half times the size of the regular type face used in the document, a statement that the loan is not assumable without approval of VA or its authorized agent.

House bill

Section 405 of H.R. 2540 would modify the requirement in section 73714(d) of title 38, United States Code, by requiring that such notice appear conspicuously on at least one instrument (such as a VA rider) under guidelines established by VA in regulations.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 403 of the compromise agreement follows the House language.

INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING

Current law

The Secretary is authorized in chapter 21 of title 38, United States Code, to assist eligible veterans in acquiring suitable housing and adaptations with special fixtures made necessary by the nature of the veterans's service-connected disability, and with the necessary land. The assistance authorized for a severely disabled veteran shall not exceed $43,000. The amount authorized for less severely disabled veterans shall not exceed $8,250.

House bill

Section 305 of H.R. 801 would increase the grant for specially adapted housing for severely disabled veterans to $48,000 and for less severely disabled veterans to $9,250.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 404 of the compromise agreement follows the House language.

EXTENSION OF OTHER HOUSING AUTHORITIES

Current law

Subsection 3702(a)(2)(E) of title 38, United States Code, authorizes VA to provide housing loan guaranties to members of the Selected Reserve through September 30, 2007; subsection 3720(h)(2) authorizes VA to issue guaranties of timely principal and interest payments on trust-issued securities backed by vendee loans through December 31, 2008; subsection 3729(b)(2) authorizes VA to charge a loan fee for VA home loan guaranties through October 1, 2008; and subsection 3732(c)(11) of title 38, United States Code, authorizes VA to apply specified procedures for liquidation sales to defaulted home loans guaranteed by VA through October 1, 2008.

House bill

The House bills contain no comparable provision.

Senate bill

Section 303(a) of the Senate bill extends VA's authority to provide housing loan guaranties to members of the Selected Reserve through September 30, 2011; section 303(b) extends VA's loan asset sale authority through December 31, 2011; section 303(c) extends the VA's authority to charge a loan fee for VA home loan guaranties through October 1, 2011; and section 303(d) extends VA's authority to apply procedures for liquidation sales to defaulted home loans guaranteed by VA through October 1, 2011.

Compromise agreement

Section 405(a) of the compromise agreement extends the housing loan guaranties to members of the Selected Reserve through September 30, 2009; sections 405(b) through (d) of the compromise agreement follows the Senate language.

Title V—Other Matters

INCREASE IN BURIAL BENEFITS

Current law

Under section 2307 of title 38, United States Code, the Secretary, upon request of the survivors of a veteran, shall pay the burial and funeral expenses incurred in connection with the death of a veteran. In the case of a veteran who dies as the result of a service-connected disability, the amount would not exceed the greater of (1) $1,500, or (2) the amount authorized to be paid under section 8134(a) of title 5, United States Code, in the case of a federal employee whose death occurs as the result of an injury sustained in the performance of duty. In the case of nonservice-connected deaths, section 2302 of title 38, United States Code provides for a payment in the amount of $300 for veterans in receipt of compensation or pension. Section 2303(b) of title 38, United States Code, also authorizes the Secretary to pay a $150 plot allowance for eligible veterans buried in a state or private cemetery.

House bill

Section 301(a) of H.R. 801 would increase the burial and funeral allowance payable for service-connected deaths from $1,500 to $2,000, and for nonservice connected deaths from $300 to $500. Section 301(b) would increase the burial plot allowance from $150 to $300. Section 301(c) would require that such amounts payable under sections 2302 (funeral expenses), 2303 (plot allowance), and 2307 (death from service-connected disability) would be indexed to cost-of-living increases in benefits paid under the Social Security Act, title 42, United States Code.

Senate bill

Section 401 of the Senate bill would increase the burial benefits for service-connected deaths from $1,500 to $2,000.

Compromise agreement

Section 501 of the compromise bill would increase burial benefits for service-connected deaths from $1,500 to $2,000 effective September 11, 2001, and increase the plot allowance from $150 to $300 effective December 1, 2001.

GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES

Current law

Section 2306 of title 38 limits the provision of headstones and grave markers by VA to the unmarked graves of veterans, or to commemorate the grave of an eligible person whose remains are unavailable. A veteran's family is permitted to obtain a private

marker later. However, if a veteran's family obtains a private marker first, the VA may not furnish a headstone or grave marker.

House bill

The House bill contains no comparable provision.

Senate bill

Section 402 of S. 1088 would allow the Secretary of VA to furnish bronze markers for already privately marked graves. This section would permit the marker to be located in an appropriate place to be determined by the cemetery concerned, within the grounds of the cemetery. Eligibility for grave markers would apply to deaths occurring after the date of enactment of this provision and deaths occurring before its enactment, but after November 1, 1990, so long as the request for the marker is made within 4 years after the enactment date.

Compromise agreement

Section 502 of the compromise agreement creates a five-year program requiring the Secretary to furnish a bronze marker to those families that request a government marker for the marked grave of a veteran at a private cemetery. The Secretary is required to furnish the marker directly to the cemetery and the family is required to place the marker on the veteran's gravesite. Not later then February 1, 2006, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the use of this five-year authority to include: the rate and cost of the use of the benefit by fiscal year; an assessment if the extent to which markers are being delivered to cemeteries and placed on gravesites; and the Secretary's' recommendation for extension or repeal of the December 31, 2006, expiration date. The Committees note that the Secretary should implement this provision in a flexible manner in light of requests for grave markers predating this provision.

INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS

Current law

Under section 3902(a) of title 38, United States Code, the Secretary may pay up to $8,000 (including all state, local, and other taxes) to an eligible disabled service member or veteran to purchase an automobile.

House bill

Section 304 of H.R. 801 would increase the amount of assistance for automobile grants from $8,000 to $9,000.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 503 of the compromise agreement follows the House language.

EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE

Current law

Under section 5503(f) of title 38, United States Code, VA pension paid to certain veterans receiving Medicaid-covered nursing home care is reduced to $90 per month. VA's authority to reduce the pension amount expires on September 30, 2008.

House bill

The House bills contain no comparable provision.

Senate bill

Section 210 of the Senate bill would extend through September 30, 2011, the $90 per month cap on VA pensions paid to certain veterans receiving Medicaid-covered nursing home care.

Compromise agreement

Section 504 of the compromise agreement follows the Senate language.

PROHIBITION OF VETERANS RECEIVING BENEFITS WHILE FUGITIVE FELONS

Current law

Public Law 104–193 bars fugitive felons from receiving Supplemental Security Insurance from the Social Security Administration and food stamps from the Department of Agriculture. Currently, there is no law barring veterans who are fugitive felons from receiving VA benefits.

House bill

The House bills contain no comparable provision.

Senate bill

Section 207 of the Senate bill would prohibit veterans and eligible dependents from receiving veterans benefits while a ''fugitive,'' which is defined under this section as fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the veteran flees.

Compromise agreement

Section 505 of the compromise agreement substantially follows the Senate language.

LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980

Current law

Under section 5313(d) of title 38, United States Code, compensation paid to any veteran incarcerated after October 7, 1980, is reduced to a level equal to the compensation rate for a 10 percent disability with the balance allowed to be apportioned to the veteran's dependents, if any.

House bill

The House bills contain no comparable provision.

Senate bill

Section 208 of the Senate bill would apply the restrictions listed in section 5313(d) of title 38, United States Code, to veterans incarcerated before October 7, 1980. This provision would not affect any payments made prior to the enactment of this legislation.

Compromise agreement

Section 506 of the compromise agreement follows the Senate language. It is the Committees' hope that VA will receive all necessary cooperation from the state and federal prison systems in implementing this provision, such as the timely compiling of data of incarcerated veterans affected by this change in law.

ELIMINATION OF REQUIREMENT FOR PROVIDING A COPY OF NOTICE OF APPEAL TO THE SECRETARY OF VETERANS AFFAIRS

Current law

Section 7266(b) of title 38, United States Code, requires an individual appealing a decision of the Board of Veterans' Appeals to furnish the Secretary of Veterans Affairs with a copy of his or her notice of appeal to the U.S. Court of Appeals for Veterans Claims.

House bill

Section 406 of H.R. 2540 repeals section 7266(b) of title 38, United States Code.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 507 of the compromise agreement follows the House language.

INCREASE IN FISCAL YEAR LIMITATION ON THE NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE

Current law

Under section 3120 of title 38, United States Code, VA's Vocational Rehabilitation and Employment Service maintains an independent living program designed to assist service-disabled veterans, who are to disabled to retrain for employment, in achieving and maintaining defined independent living outcomes. Subsection 3120(e) of this title limits participation in this program to no more than 500 veteran participants per fiscal year. Despite this limitation, VA has been providing services to approximately 2,400 veterans per year.

House bill

The House bills contain no comparable provision.

Senate bill

Section 501 of the Senate bill would eliminate the 500-veteran cap for participants of the independent living program, and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected condition.

Compromise agreement

Section 508 of the compromise agreement would increase the maximum number of veterans allowed to participate in the VA independent living program to 2,500, and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected condition.

While the Committees acknowledge the value of this program, the Committees strongly disapprove of VA's apparent decision to ignore the limitations in current law. When a limitation contains in current law proves detrimental to veterans, the Committees expect that the Secretary will not proceed to ignore the law, but rather to present the Congress with appropriate corrective legislation. In the event that the number currently authorized proves to be insufficient to meet the needs of our Nation's disabled veterans, the Committees direct the Secretary to propose appropriate legislation to Congress.

Title VI—U.S. Court of Appeals for Veterans Claims

FACILITATION OF STAGGERED TERMS OF JUDGES THROUGH TEMPORARY EXPANSION OF THE COURT

Current law

Section 7253 of title 38, United States Code, requires that the U.S. Court of Appeals for Veterans Claims (CAVC) shall be composed of no more than seven judges and one shall be chief judge. After the Court's establishment in 1988, the initial seven judges were appointed within 16 months of one another. A new judge was appointed in 1997 to fill a vacancy created by the death of one of the originally appointed judges. The chief judge retired in 2000, and his seat has not yet been filled. By 2005, the terms of five of the remaining judges will have ended. This will likely leave four simultaneously vacant seats by 2005.

House bill

The House bills contain no comparable provision.

Senate bill

Section 601 of the Senate bill would temporarily expand the membership of the CAVC by two seats until August 2005 in order to bridge the retirement of the original judges.

Compromise agreement

Section 601 of the compromise agreement follows the Senate language.

REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF RE-APPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT

Current law

Section 7296(b)(2) of title 38, United States Code, requires a judge who has not been reappointed following the expiration of his or her appointed term, before that judge is 65 years old, as a precondition to retirement, to advise the President, in writing, that the judge is willing to accept reappointment.

House bill

The House bills contain no comparable provision.

Senate bill

Section 602 of the Senate bill would repeal the requirement that a judge provide written notice indicating willingness to accept reappointment as a precondition to retirement from the CAVC.

Compromise agreement

Section 602 of the compromise agreement follows the Senate language.

TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR THE COURT

Current law

Under section 402 of the Veterans' Judicial Review Act (Public Law 100–687; 38 U.S.C. §7251 note) (VJRA), a Notice of Disagreement (NOD) must have been filed on or after November 18, 1988, in order to establish jurisdiction necessary for the CAVC to review a claimant's case. Section 403 of the VJRA (102 Stat. 4122; 38 U.S.C. §5904 note) limits the payment of attorney fees to cases in which a post-November 17, 1988, NOD has been filed.

House bill

The House bills contain no comparable provision.

Senate bill

Section 603(a) of the Senate bill would eliminate the post-November 17, 1988, NOD as a prerequisite to jurisdiction at the CAVC. It would not affect the requirement of a NOD to trigger appeal within VA of a decision nor any other prerequisite to review at the Court. Section 603(b) of the Senate bill would similarly eliminate the limitation on payment of attorney fees to those cases in which a post-November 17, 1988, NOD has been filed.

Compromise agreement

Section 603 of the compromise agreement follows the Senate language.

REGISTRATION FEES

Current law

Section 7285 of title 38, United States Code, provides that the CAVC may impose periodic registration fees on persons admitted to practice before the Court. These fees may be used for purposes of hiring independent counsel to pursue disciplinary matters and defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

House bill

Section 301(a) of H.R. 2540 would authorize the Court to collect registration fees for persons participating in a judicial conference or other Court-sponsored activities where appropriate.

Section 301(b) of H.R. 2540 would amend section 7285(b) of title 38, United States Code, to add that registration fees paid to the Court may also be used generally in connection with practitioner disciplinary proceedings and in support of certain bench-and-bar veterans' law educational activities.

Senate bill

Section 604 of the Senate bill contains a comparable provision.

Compromise agreement

Section 604 of the compromise agreement follows the House language.

ADMINISTRATIVE AUTHORITIES

Current law

The CAVC, established by Congress under Article I of the United States Constitution to exercise judicial power, has unusual status as an independent tribunal that does not have the same general administrative authority as courts established under Article III of the Constitution. Because of its status, the Court does not have available to it certain general authorities that would normally be available were it part of the executive branch or another administrative structure.

House bill

Section 302 of H.R. 2540 would add a new section 7287 to title 38, United States Code, to make available to the Court generally the same management, administrative, and expenditure authorities that are available to Article III courts of the United States.

Senate bill

Section 605 of the Senate bill contains a comparable provision.

Compromise agreement

Section 605 of the compromise agreement follows the House language.

LEGISLATIVE PROVISIONS NOT ADOPTED

AUTHORITY FOR ACCELERATED PAYMENTS OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL

Current law

Section 3014 of title 38 provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments. Benefits are provided for each month in which the MGIB participant is certified to be participating in a course of study. If requested by a veteran, section 3680(d)(2) of title 38 allows for an advance payment of educational assistance in an amount equivalent to the allowance for the month, or fraction thereof, in which pursuit of an education program will commence, plus the allowance for the succeeding month.

House bill

The House bills contain no comparable provision.

Senate bill

Section 102 of the Senate bill would allow Montgomery GI Bill participants to receive their otherwise monthly payment as an accelerated lump-sum payment for the month in which a course of study begins, plus up to 4 months worth of educational assistance allowance. In the case of a term, quarter, or semester, the accelerated lump-sum payment would equal the amount of the aggregate monthly educational assistance allowance for the entire term, quarter, or semester.

PRESUMPTIVE PERIOD FOR UNDIAGNOSED ILLNESSES

Current law

Section 1117(b) of title 38 United States Code authorizes the Secretary to extend the period of presumption of service connection for Persian Gulf War veterans disabled by undiagnosed illnesses by regulation. On October 12, 2001, the Secretary published a regulation extending the presumptive period through December 31, 2006.

House bill

Section 204 of H.R. 2540 extends the presumptive period for undiagnosed illnesses to December 31, 2003.

Senate bill

Section 202(a) of the Senate bill extended the presumptive period for undiagnosed illnesses to December 31, 2011, or such later date as the Secretary may prescribe by regulation.

REVISION OF RULES WITH RESPECT TO NET WORTH LIMITATION FOR ELIGIBILITY FOR PENSIONS FOR VETERANS WHO ARE PERMANENTLY AND TOTALLY DISABLED FROM A NONSERVICE-CONNECTED DISABILITY

Current law

The VA Pension Program at chapter 15 of title 38, United States Code, provides financial assistance based upon need to veterans who have had at least 90 days of military service, including at least one day of wartime service, and who are totally and permanently disabled for employment purposes as a result of disability not related to their military service. In determining eligibility for pension benefits, VA is required to consider not only the family income, but also the family's ''net worth.'' The value of farm and ranch land is included in determining net worth unless VA determines that land can be sold at ''no substantial sacrifice,'' section 3.275 of chapter 38, Code of Federal Regulations.

House bill

Section 306 of H.R. 801 would revise the rule with respect to net worth limitation for VA's means-tested pension program by excluding the value of property used for farming, ranching, or similar agricultural purposes.

Senate bill

The Senate bill contains no comparable provision.

MODIFICATION OF THE TIME LIMITATION FOR RECEIPT OF CLAIM INFORMATION

Current law

Under section 5103(b) of title 38 there exists a one-year time limit, following notification by the Secretary, on the receipt of information and evidence necessary to substantiate a claim for benefits based on an already complete or substantially complete application. Public Law 106–475 established this time limitation and eliminated an identical limitation on the receipt of information and evidence necessary to complete an application for benefits.

House bill

The House bills contain no comparable provision.

Senate bill

Section 205 of the Senate bill would restore the one-year time limit on the receipt of information or evidence necessary to complete an application following notification by the Secretary. It would also eliminate the existing one-year time limit on information or evidence necessary to substantiate a claim based on a completed or substantially complete application.

MODIFICATION OF THE EFFECTIVE DATE OF CHANGE IN RECURRING INCOME FOR PENSION PURPOSES

Current law

Section 5112(b)(4) of title 38, United States code, requires VA pensions be reduced or discontinued effective the first day of the month following the month in which the pensioner's net income is reported to have increased.

House bill

The House bills contain no comparable provision.

Senate bill

Section 206 of the Senate bill would modify the effective date of reduction or discontinuation of compensation or pension by reason of a change in recurring income to the first day of the year following the year in which the pensioner's net income is reported to have changed.

PAYMENT OF INSURANCE PROCEEDS TO AN ALTERNATE BENEFICIARY WHEN FIRST BENEFICIARY CANNOT BE IDENTIFIED

Current law

Under chapter 19 of title 38, United States Code, there is no time limitation for a first-named beneficiary of a National Service Life Insurance (NSLI) or a United States Government Life Insurance (USGLI) policy to file a claim for proceeds. As a result, when the insured dies and the beneficiary does not file a claim, VA is required to hold the unclaimed funds indefinitely in order to honor any possible future claims by that beneficiary. VA is not permitted to pay the proceeds to an alternate beneficiary unless VA can determine that the first beneficiary predeceased the policyholder.

House bill

Section 401 of H.R. 2540 would grant the Secretary of Veterans Affairs the authority to authorize payment of NSLI or USGLI proceeds to an alternate beneficiary when the proceeds have not been claimed by the first-named beneficiary within three years following the death of the policyholder. If no beneficiary has filed a claim within five years of the veteran's death, benefits could be paid to such person as the Secretary determines is equitably entitled to the proceeds of the policy.

Senate bill

The Senate bill contains no comparable provision.

EXTENSION OF COPAYMENT REQUIREMENT FOR OUTPATIENT PRESCRIPTION MEDICATIONS

Current law

Section 1722A(c) of title 38, United States Code, furnishes the Secretary the authority, through September 30, 2002, to require a copayment of $2 for each 30-day supply of medication VA furnishes a veteran on an outpatient basis for the treatment of a nonservice connected disability or condition.

House bill Section 402 of H.R. 2540 would extend until September 30, 2006, the authority of the Secretary to require a $2 copayment for each 30-day supply of medication.

Senate bill

The Senate bill contains no comparable provision.

DEPARTMENT OF VETERANS AFFAIRS HEALTH SERVICES IMPROVEMENT FUND MADE SUBJECT TO APPROPRIATIONS

House bill

Section 403 of H.R. 2540 would amend section 1729B of title 38, United States Code, by making the availability of funds in the VA's Health Services Improvement Fund subject to the provisions of appropriations acts effective October 1, 2001.

Senate bill

The Senate bill contains no comparable provision.

PILOT PROGRAM FOR EXPANSION OF TOLL-FREE TELEPHONE ACCESS TO VETERANS SERVICE REPRESENTATIVES

Current law

VA provides various toll-free automated telephone response systems for veterans to furnish them information on VA benefits and services.

House bill

Section 407 of H.R. 2540 would establish a two-year nationwide pilot program to test the benefit and cost effectiveness of expanding current access to VA veterans service representatives through a toll-free telephone number. Under the pilot program, the Secretary would be required to expand the available hours of such access to veterans service representatives to not less than twelve hours on each regular business day across U.S. time zones and not less than six hours on Saturday. The pilot would also require that such service representatives have available to them information about veterans benefits provided by all other federal departments and agencies, and state governments.

Senate bill

The Senate bill contains no comparable provision.

CODIFICATION OF RECURRING PROVISIONS IN ANNUAL DEPARTMENT OF VETERANS AFFAIRS APPROPRIATIONS ACTS

Current law

Each year the Congress appropriates funds to the Department of Veterans Affairs as part of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act. Although the amount of the appropriations varies from year to year, the purposes for which appropriations are made are generally fixed, and change little, if any, from year to year.

House bill

Section 409 of H.R. 2540 would codify recurring provisions in annual Department of Veterans Affairs Appropriations Acts.

Senate bill

The Senate bill contains no comparable provision.

ORDERS FOR FRIDAY, DECEMBER 14, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, December 14; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the farm bill.

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

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes tomorrow. The next rollcall votes will occur on Tuesday, December 18, at approximately 11 a.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:08 p.m., adjourned until Friday, December 14, 2001, at 9:30 a.m.

Daily Digest

HIGHLIGHTS

Senate and House agreed to the Conference Report to accompany S. 1438, Department of Defense Authorization Act.

Senate agreed to the Conference Report to accompany H.R. 2883, Intelligence Authorization Act.

The House passed H.J. Res. 76, making further continuing appropriations through December 21.

The House agreed to the Conference Report on H.R. 1, No Child Left Behind Act.

Senate

Chamber Action

Routine Proceedings, pages S13079–S13243

Measures Introduced: Fourteen bills and two resolutions were introduced, as follows: S. 1815–1828, S. Res. 191, and S. Con. Res. 93. **Pages S13145–46**

Measures Reported:

S. 990, to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, with an amendment in the nature of a substitute. (S. Rept. No. 107–123)

S. 1632, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to extend the deadline for submission of State recommendations of local governments to receive assistance of predisaster hazard mitigation and to authorize the President to provide additional repair assistance to individuals and households. (S. Rept. No . 107–124)

H.R. 861, to make technical amendments to section 10 of title 9, United States Code.

H.R. 1840, to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.

H.R. 1892, to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked, with an amendment.

H.R. 2048, to require a report on the operations of the State Justice Institute.

H.R. 2277, to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

H.R. 2278, to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

S.J. Res. 8, designating 2002 as the "Year of the Rose".

S.J. Res. 13, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

Pages S13144–45

Measures Passed:

Enrollment Correction: Senate agreed to H. Con. Res. 288, to provide for a technical correction in the enrollment of S. 1438, Department of Defense Authorization. **Page S13113**

Commending Afghan Interim Administration: Senate agreed to S. Res. 191, to express the sense of the Senate to commend the inclusion of women in

the Afghan Interim Administration and commending those who met at the historic Afghan Women's Summit for Democracy in Brussels.

Page S13225

Women's Participation in Afghanistan: Senate agreed to S. Con. Res. 86, expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan. **Page S13225**

Promoting Safe and Stable Families Amendments: Senate passed H.R. 2873, to extend and amend the program entitled Promoting Safe and Stable Families under title IV–B, subpart 2 of the Social Security Act, and to provide new authority to support programs for mentoring children of incarcerated parents; to amend the Foster Care Independent Living program under title IV–E of that Act to provide for educational and training vouchers for youths aging out of foster care, clearing the measure for the President. **Pages S13225–26**

Indian Trust Lands: Committee on Indian Affairs was discharged from further consideration of H.R. 483, regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon, and the bill was then passed, clearing the measure for the President.

Page S13226

Honoring the National Guard: Senate agreed to S. Con. Res. 93, to recognize and honor the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony. **Pages S13226–27**

Federal Farm Bill: Senate continued consideration of S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, taking action on the following amendments proposed thereto: **Pages S13079–99, S13101–13, S13116–18, S13138–40**

Adopted:

By 64 yeas to 31 nays, and 1 responding present (Vote No. 366), Feingold/Grassley/Harkin Amendment No. 2522 (to Amendment No. 2471), to reform certain mandatory arbitration clauses.

Pages S13087–91, S13091–92

By 51 yeas to 46 nays (Vote No. 367), Johnson Amendment No. 2534 (to Amendment No. 2471), to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

Pages S13093–99

Wyden/Brownback Amendment No. 2546 (to Amendment No. 2471), to provide for forest carbon sequestration and carbon trading by farmer-owned cooperatives. **Pages S13116–18**

Rejected:

Bond Amendment No. 2513 (to Amendment No. 2471), to authorize the Secretary of Agriculture to review Federal agency actions affecting agricultural producers. (By 54 yeas to 43 nays (Vote No. 365), Senate tabled the Amendment)

Pages S13080–87, S13091

Withdrawn:

McCain/Gramm/Kerry Amendment No. 2598 (to the text of the bill proposed to be stricken), to provide for the market name for catfish.

Pages S13110–12, S13138–39

Pending:

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

Pages S13080–99, S13101–13, S13116–18, S13138–40

Smith (NH) Amendment No. 2596 (to Amendment No. 2471), to provide for Presidential certification that the government of Cuba is not involved in the support for acts of international terrorism as a condition precedent to agricultural trade with Cuba. **Pages S13102–10**

Torricelli Amendment No. 2597 (to Amendment No. 2596), to provide for Presidential certification that all convicted felons who are living as fugitives in Cuba have been returned to the United States prior to the amendments relating to agricultural trade with Cuba becoming effective. **Pages S13104–10**

Daschle motion to reconsider the vote (Vote 368) by which the motion to close further debate on Daschle (for Harkin) Amendment No. 2471 (listed above) failed. **Page S13112**

During consideration of this measure today, Senate also took the following actions:

By 53 yeas to 45 nays (Vote No. 368), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate failed to agree to the motion to close further debate on Daschle (for Harkin) Amendment No. 2471 (listed above).

Page S13112

A unanimous-consent agreement was reached providing for the filing of second degree amendments to Daschle (for Harkin) Amendment No. 2471 (listed above), until 11 a.m., on Friday, December 14, 2001. **Pages S13092–93**

A unanimous-consent agreement was reached providing for further consideration of the bill on Friday, December 14, 2001, that the pending Smith (NH) and Torricelli amendments (listed above) be laid aside, and that Senators Wellstone and McCain be recognized to offer certain amendments. **Page S13139**

Department of Defense Authorization Act Conference Report: By 96 yeas to 2 nays (Vote No. 369), Senate agreed to the conference report on S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, and to prescribe personnel strengths for such fiscal year for the Armed Forces, clearing the measure for the President.

Pages S13113, S13118–38

Intelligence Authorization Act Conference Report: By unanimous consent, Senate agreed to the conference report on H.R. 2883, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, clearing the measure for the President. **Page S13113**

21st Century Montgomery GI Bill Enhancement Act: Senate concurred in the amendment of the House to the amendment of the Senate to H.R. 1291, to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill, clearing the measure for the President. **Pages S13227–43**

Education Reform Conference Report—Agreement: A unanimous-consent-time agreement was reached providing for consideration of the conference report on H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, at 1 p.m., on Monday, December 17, 2001, and on Tuesday, December 18, 2001, with a vote on adoption of the conference report to occur on Tuesday at 11 a.m. **Page S13093**

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 97 yeas (Vote No. EX. 370), Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.

Pages S13099, S13113–16

Nominations Received: Senate received the following nominations:

John Magaw, of Maryland, to be Under Secretary of Transportation for Security for a term of five years. (New Position)

Robert B. Holland III, of Texas, to be United States Alternate Executive Director of the International Bank For Reconstruction and Development for a term of two years.

Andrea G. Barthwell, of Illinois, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

Nehemiah Flowers, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.

Arthur Jeffrey Hedden, of Tennessee, to be United States Marshal for the Eastern District of Tennessee, for the term of four years.

David Glenn Jolley, of Tennessee, to be United States Marshal for the Western District of Tennessee for the term of four years.

Dennis Cluff Merrill, of Oregon, to be United States Marshal for the District of Oregon for the term of four years.

Michael Wade Roach, of Oklahoma, to be United States Marshal for the Western District of Oklahoma for the term of four years.

Eric Eugene Robertson, of Washington, to be United States Marshal for the Western District of Washington for the term of four years. **Page S13099**

Messages From the House: **Page S13144**

Executive Reports of Committees: **Page S13145**

Additional Cosponsors: **Page S13146**

Statements on Introduced Bills/Resolutions: **Pages S13146–56**

Additional Statements: **Pages S13143–44**

Amendments Submitted: **Pages S13156–S13224**

Authority for Committees to Meet: **Pages S13224–25**

Record Votes: Six record votes were taken today. (Total—370)

Pages S13091, S13092, S13099, S13112, S13113, S13114

Adjournment: Senate met at 9:30 a.m., and adjourned at 9:08 p.m., until 9:30 a.m., on Friday, December 14, 2001. (For Senate's program, see the

remarks of the Acting Majority Leader in today's Record on page S13243.)

Committee Meetings

(Committees not listed did not meet)

NUCLEAR WEAPONS

Committee on Armed Services: Subcommittee on Strategic concluded open and closed hearings to examine the security of United States nuclear weapons and nuclear weapons facilities, focusing on effective intelligence gathering, system vulnerability assessments, and responsive improvement programs and communication, after receiving testimony from Maj. Gen. Franklin J. Blaisdell, USAF, Director, Nuclear Operations and Counterproliferation Office of the Deputy Chief of Staff for Air and Space Operations; Brig. Gen. Ronald Haeckel, USAF, Acting Deputy Administrator for Defense Programs, National Nuclear Security Administration; Rear Adm. Dennis M. Dwyer, USN, Director, Strategic Systems Programs Office; and Linton Wells II, Principal Deputy Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

COMMUNITY DEVELOPMENT

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine housing and community development needs in America, focusing on providing a mortgage cut rate for National Guardsmen and Reservists called to active duty, relief on FHA insured mortgages for the victims families of the September 11, 2001 attacks, and for New York City's economic recovery, after receiving testimony from Mel Martinez, Secretary of Housing and Urban Development.

CAMPAIGN AGAINST TERRORISM

Committee on Foreign Relations: Subcommittee on Central Asia and South Caucasus concluded hearings to examine contributions of central Asian nations to the campaign against terrorism, including basing facilities for U.S. and allied forces, over-flight rights, intelligence sharing, and use of airports for military and humanitarian activities in Afghanistan, after receiving testimony from Elizabeth A. Jones, Assistant Secretary of State for European Affairs; and S. Frederick Starr, Johns Hopkins University Nitze School of Advanced International Studies Central Asia and Caucasus Institute, and Fiona Hill, Brookings Institution, both of Washington, D.C.

RAILROAD SAFETY

Committee on Governmental Affairs: Committee concluded hearings to examine the security status of U.S. passenger and transit rail infrastructure, focusing on counter-terrorism equipment, security related training programs, and technologies capable of detecting chemical and biological agents on transit systems, after receiving testimony from Jennifer L. Dorn, Administrator, Federal Transit Administration, Department of Transportation; Ernest R. Fraizer, Sr., National Railroad Passenger Corporation (Amtrak); Dorothy W. Dugger, San Francisco Bay Area Rapid Transit District, San Francisco, California; Jeffrey A. Warsh, New Jersey Transit Corporation, Newark; Richard A. White, Washington Metropolitan Area Transit Authority, Washington, D.C.; and Trixie Johnson, San Jose State University Mineta Transportation Institute, San Jose, California.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

H.R. 1892, to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked, with an amendment;

H.R. 2277, to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors;

H.R. 2278, to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States;

H.R. 1840, to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees;

H.R. 861, to make technical amendments to section 10 of title 9, United States Code;

H.R. 2048, to require a report on the operations of the State Justice Institute;

S.J. Res. 8, designating 2002 as the "Year of the Rose";

S.J. Res. 13, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette; and

The nominations of Callie V. Granade, to be United States District Judge for the Southern District of Alabama, Marcia S. Krieger, to be United States District Judge for the District of Colorado, James C. Mahan, to be United States District Judge for the District of Nevada, Philip R. Martinez, to be United States District Judge for the Western District of Texas, C. Ashley Royal, to be United States District Judge for the Middle District of Georgia, and Michael A. Battle, to be United States Attorney for the Western District of New York, Christopher James Christie, to be United States Attorney for the District of New Jersey, Harry E. Cummins III, to be United States Attorney for the Eastern District of Arkansas, David Preston York, to be United States Attorney for the Southern District of Alabama, Mauricio J. Tamargo, of Florida, to be Chairman of the Foreign Claims Settlement Commission of the United States, and Dwight MacKay, of Montana, to be United States Marshal for the District of Montana, all of the Department of Justice.

HOMELAND DEFENSE

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information concluded hearings to examine the protection of our homeland against terror, focusing on policy, planning, and resource allocation responsibilities coordination, future operational solutions which balance apportionment of forces nationally and abroad, and local, state, and federal interagency cooperation improvement, after receiving testimony from Senator Bond; Lt. Gen. Frank G. Libutti, USMC (Ret.), Special Assistant to the Interim Department of Defense Executive Agent for Homeland Security; Lt. Gen. Russell C. Davis, USAF, Chief, National Guard Bureau; Maj. Gen. Richard C. Alexander, NGAUS (Ret.), Executive Director, National Guard Association of the United States; and Maj. Gen. Paul D. Monroe, Jr., Adjutant General, California National Guard.

House of Representatives

Chamber Action

Measures Introduced: 28 public bills, H.R. 3476–3503; and 2 resolutions, H. Con. Res. 288–289, were introduced. **Pages H10065–66**

Reports Filed: Reports were filed today as follows:

H.R. 3084, to revise the discretionary spending limits for fiscal year 2002 set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 and to make conforming changes respecting the appropriate section 302(a) allocation for fiscal year 2002 established pursuant to the concurrent resolution on the budget for fiscal year 2002 (H. Rept. 107–338). **Page H10065**

Making Further Continuing Appropriations Through December 21: The House passed H.J. Res. 78, making further continuing appropriations for the fiscal year 2002. The joint resolution was considered pursuant to the order of the House of Wednesday, Dec. 12. **Pages H10061–64**

Department of Defense Authorization Conference Report: The House agreed to the conference report on S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces by a yea-and-nay vote of 382 yeas to 40 nays, Roll No. 495. **Pages H10073–80**

Earlier the House agreed to H. Res. 316, the rule that waived points of order against the conference report by voice vote. **Pages H10069–73**

Technical Correction in Enrollment of DOD Authorization Act: The House agreed to H. Con. Res. 288, directing the Secretary of the Senate to make a technical correction in the enrollment of S. 1438, National Defense Authorization Act for Fiscal Year 2002. **Pages H10080–82**

No Child Left Behind Act: The House agreed to the conference report on H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind by a recorded vote of 381 ayes to 41 noes, Roll No. 497. **Pages H10092–H10113**

Earlier the House agreed to H. Res. 315, the rule that waived points of order against the conference report by voice vote. **Pages H10082–92**

Technical Correction in Enrollment of No Child Left Behind Act: The House agreed to H. Con. Res. 289, directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 1, No Child Left Behind Act. **Pages H10113–14**

Consideration of Suspensions on Dec. 19, 2001: The House agreed to H. Res. 314, the rule providing for the consideration of motions to suspend the rules on Wednesday, Dec. 19, 2001 by a recorded vote of 306 ayes to 100 nays, Roll No. 498. **Pages H10082, H10113**

Legislative Program: The Majority Leader announced the legislative program for the week of Dec. 17. **Page H10114**

Meeting Hour—Monday, Dec. 17: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, Dec. 17 in pro forma session. **Page H10114**

Meeting Hour—Tuesday, Dec. 18: Agreed that when the House adjourns on Monday, it adjourn to meet at 12:30 p.m. on Tuesday, Dec. 18 for morning hour debate. **Page H10114-15**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Dec. 19. **Pages H10115**

Victims of Terrorism Relief Act: The House agreed to the Senate amendments to H.R. 2884, to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001, with an amendment. The motion to concur in the Senate amendments with an amendment was considered pursuant to an earlier unanimous consent order (the Senate amended the title so as to read: An act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States). **Pages H10115–41**

Senate Messages: Message received from the Senate appears on page H10080.

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today and appear on pages H10079–80, H10112, and H10113. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 5:54 p.m.

Committee Meetings

ELECTRIC SUPPLY AND TRANSMISSION ACT

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality concluded hearings on H.R. 3406, Electric Supply and Transmission Act of 2001. Testimony was heard from Isaac Hunt, Commissioner, SEC; and public witnesses.

FBI'S HANDLING OF CONFIDENTIAL INFORMANTS IN BOSTON

Committee on Government Reform: Held a hearing on "The FBI's Handling of Confidential Informants in Boston: Will the Justice Department Comply with Congressional Subpoenas?" Testimony was heard from the following officials of the Department of Justice: Michael Horowitz, Chief of Staff, Criminal Division; and Edward Whelan, Principal Deputy, Assistant Attorney General.

DIGITAL MILLENNIUM COPYRIGHT ACT SECTION 104 REPORT

Committee on the Judiciary: Subcommittee on Courts, the Internet and Intellectual Property concluded oversight hearings on "The Digital Millennium Copyright Act Section 104 Report." Testimony was heard from Marybeth Peters, Register of Copyrights, Library of Congress; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held a hearing on the following bills: H.R. 2109, to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System; H.R. 2748, National War Permanent Tribute Historical Database Act; H.R. 3421, Yosemite National Park Educational Facilities Improvement Act; and H.R. 3425, to direct the Secretary of the Interior to study the suitability and feasibility of establishing Highway 49 in California, known as the "Golden Chain Highway," as a National Heritage Corridor. Testimony was heard from Representatives Dreier, Meek of Florida and Hastings of Florida; Vincent L. Barile, Deputy Under Secretary, Management, National Cemetery Administration, Central Office, Department of Veterans Affairs; David Mihalic, Superintendent, Yosemite National Park, National Park Service, Department of the Interior; and public witnesses.

GENERAL AVIATION INDUSTRY REPARATIONS ACT

Committee on Transportation and Infrastructure, Subcommittee on Aviation approved for full Committee action, as amended, H.R. 3347, General Aviation Industry Reparations Act of 2001.

NATIONAL CEMETERY ELIGIBILITY

Committee on Veterans' Affairs: Ordered reported, as amended, H.R. 3423, to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery.

Prior to this action, the Committee held a hearing on this legislation. Testimony was heard from John C. Metzler, Superintendent, Arlington National Cemetery, Department of the Army; and representatives of various veterans organizations.

COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 14, 2001

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Finance: to continue markup of H.R. 3005, to extend trade authorities procedures with respect to reciprocal trade agreements; and to consider the nomination of Richard Clarida, of Connecticut, to be Assistant Secretary for Economic Policy, the nomination of Kenneth Lawson, of Florida, to be Assistant Secretary for Enforcement, and the nomination of B. John Williams, Jr., of Virginia, to be Chief Counsel for the Internal Revenue Service and Assistant General Counsel, all of the Department of the Treasury; the nomination of Janet Hale, of Virginia, to be Assistant Secretary for Management and Budget, and the nomination of Joan E. Ohl, of West Virginia, to be Commissioner on Children, Youth, and Families, both of the Department of Health and Human Services; and the nomination of James B. Lockhart III, of Connecticut, to be Deputy Commissioner of Social Security, and the nomination of Harold Daub, of Nebraska, to be a Member of the Social Security Advisory Board, both of the Social Security Administration, 9:30 a.m., SD–215.

House

Committee on Government Reform, Subcommittee on Technology and Procurement Policy, hearing on Battling Bioterrorism: Why Timely Information-Sharing Between Local, State and Federal Governments is the Key to Protecting Public Health, 10 a.m., 2247 Rayburn.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *of December 7, 2001, p. D1226)*

S. 1459, to designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse". Signed on December 12, 2001. (Public Law 107–80)

S. 1573, to authorize the provision of educational and health care assistance to the women and children of Afghanistan. Signed on December 12, 2001. (Public Law 107–81)

Next Meeting of the SENATE

9:30 a.m., Friday, December 14

Senate Chamber

Program for Friday: Senate will continue consideration of S. 1731, Federal Farm Bill.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Monday, December 17

House Chamber

Program for Monday: Pro forma session.

Congressional Record The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed at one time. ¶Public access to the Congressional Record is available online through *GPO Access,* a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through GPO Access at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at (202) 512–1661. Questions or comments regarding this database or GPO Access can be directed to the GPO Access User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $197.00 for six months, $393.00 per year, or purchased for $4.00 per issue, payable in advance; microfiche edition, $141.00 per year, or purchased for $1.50 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to (202) 512–1800, or fax to (202) 512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, or GPO Deposit Account. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.