

Code by reason of such exercise shall not exceed the amount that would have been taken into account if, on the date of such exercise, the fair market value of the stock acquired pursuant to such option had been its fair market value as of April 15, 2001 (or, if such stock is sold or exchanged on or before such date, the amount realized on such sale or exchange).

(b) LIMITATION.—

(1) IN GENERAL.—If the adjusted gross income of a taxpayer for the taxable year in which an exercise described in paragraph (1) occurs exceeds the threshold amount, the amount otherwise not taken into account under paragraph (1) shall be reduced by the amount which bears the same ratio to such amount as the taxpayer's adjusted gross income in excess of the threshold amount bears to the phaseout amount.

(2) THRESHOLD AMOUNT.—For purposes of this subsection, the threshold amount is equal to—

(A) \$106,000 in the case of a taxpayer described in section 1(a) of such Code,

(B) \$84,270 in the case of a taxpayer described in section 1(b) of such Code, and

(C) \$53,000 in the case of a taxpayer described in section 1(c) or 1(d) of such Code.

(3) PHASEOUT AMOUNT.—For purposes of this subsection, the phaseout amount is equal to—

(A) \$230,000 in the case of a taxpayer described in section 1(a) of such Code,

(B) \$172,500 in the case of a taxpayer described in section 1(b) of such Code, and

(C) \$115,000 in the case of a taxpayer described in section 1(c) or 1(d) of such Code.

By Mr. LEVIN:

S. 1834. A bill for the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit; to the Committee on the Judiciary.

Mr. LEVIN. Mr. President, I rise today to introduce a bill that I hope will assist a family in my home State of Michigan who suffered the death of their child while living on a U.S. Army base in the Republic of Korea. Nearly 18 years ago, Mr. James Benoit and his wife Mrs. Wan Sook Benoit lost their three year old son, David Benoit, in a tragic mishap.

Some years ago, Mr. and Mrs. Benoit approached my office with a request for assistance. The Benoit family felt that they did not receive the relief that they were entitled to receive. To assist the family, I introduced two private relief bills that sought to give the Benoit family a hearing before the U.S. Court of Federal Claims.

This case was referred to U.S. Court of Federal Claims as the result of private relief legislation I introduced. The legislation, S. 1168, gave the Court of Federal Claims "jurisdiction to hear, determine and render judgement on a claim by Retired Sergeant First Class James D. Benoit, Wan Sook Benoit, or the estate of David Benoit concerning the death of David Benoit on June 28th 1983. On March 14, 2000, oral arguments were heard by the hearing officer assigned to the case and the hearing officer recommended to the Court of Federal Claims on July 28, 2000, "that Sergeant and Mrs.. Benoit be awarded \$415,000 for the wrongful death of David

Benoit." Subsequently on May 23, 2001, the Court of Federal Claims Review Panel upheld the conclusion of the hearing officer, and found that the plaintiffs "have a valid and equitable claim against the United States." It went on to state that "the Review Panel recommends that plaintiffs be awarded \$415,000."

As a result of these findings, I am introducing special legislation to provide relief consistent with the court's recommendation. This legislation can in no way compensate the Benoit's for the horrible loss that they have suffered. No amount of money can do that. However, as the court has stated, the Benoit family does indeed "have a valid and equitable claim." It is my hope that Congress will act expeditiously to resolve this claim.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 192—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN JUDITH LEWIS V. RICK PERRY, ET AL

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 192

Whereas, Senator Kay Bailey Hutchison has been named as a defendant in the case of Judith Lewis v. Rick Perry, et al., Case No. 01-10098-D, now pending in the District Court for Dallas County, Texas; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved That the Senate Legal Counsel is authorized to represent Senator Hutchison in the case of Judith Lewis V. Rick Perry, et al.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2602. Mr. WELLSTONE proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

SA 2603. Mr. LUGAR (for Mr. MCCAIN (for himself, Mr. GRAMM, Mr. KERRY, and Mrs. MURRAY)) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2604. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Mr. WELLSTONE, and Mr. ENZI) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2605. Mr. THURMOND (for himself and Mr. HELMS) submitted an amendment in-

tended 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 2606. Mr. HUTCHINSON 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 2607. Mr. BURNS proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2608. Mr. BURNS proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2609. 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 2610. Mr. DASCHLE (for Mr. LIEBERMAN (for himself and Mr. THOMPSON)) proposed an amendment to the bill H.R. 2657, to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes.

TEXT OF AMENDMENTS

SA 2602. Mr. WELLSTONE 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:

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 confined livestock 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.

“(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 2603. Mr. LUGAR (for Mr. MCCAIN (for himself, Mr. GRAMM, Mr. KERRY, and Mrs. MURRAY)) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be pro-

posed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

At the appropriate place in the substitute, 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 2604. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Mr. WELLSTONE, and Mr. ENZI) 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 941, strike line 5 and insert the following:

Subtitle C—General Provisions

SEC. 1021. PACKERS AND STOCKYARDS.

(a) DEFINITIONS.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended by adding at the end the following:

“(12) LIVESTOCK CONTRACTOR.—The term ‘livestock contractor’ means any person engaged in the business of obtaining livestock under a livestock production contract for the purpose of slaughtering the livestock or selling the livestock for slaughter, if—

“(A) the livestock is obtained by the person in commerce; or

“(B) the livestock (including livestock products from the livestock) obtained by the person is sold or shipped in commerce.

“(13) LIVESTOCK PRODUCTION CONTRACT.—The term ‘livestock production contract’ means any growout contract or other arrangement under which a livestock production contract grower raises and cares for the livestock in accordance with the instructions of another person.

“(14) LIVESTOCK PRODUCTION CONTRACT GROWER.—The term ‘livestock production contract grower’ means any person engaged in the business of raising and caring for livestock in accordance with the instructions of another person.”.

(b) CONTRACTORS.—

(1) IN GENERAL.—The Packers and Stockyards Act, 1921, is amended by striking “packer” each place it appears in sections 202, 203, 204, and 205 (7 U.S.C. 192, 193, 194, 195) (other than section 202(c)) and inserting “packer or livestock contractor”.

(2) CONFORMING AMENDMENTS.—

(A) Section 202(c) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(c)), is amended by inserting “, livestock contractor,” after “other packer” each place it appears.

(B) Section 308(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 209(a)), is amended by inserting “or livestock production contract” after “poultry growing arrangement”.

(C) Sections 401 and 403 of the Packers and Stockyards Act, 1921 (7 U.S.C. 221, 223), are amended by inserting “any livestock contractor, and” after “packer,” each place it appears.

(c) RIGHT TO DISCUSS TERMS OF CONTRACT.—The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), is amended by adding at the end the following:

“SEC. 417. RIGHT TO DISCUSS TERMS OF CONTRACT.

“(a) IN GENERAL.—Notwithstanding a provision in any contract for the sale or production of livestock or poultry that provides that information contained in the contract is confidential, a party to the contract shall not be prohibited from discussing any terms or details of any contract with—

“(1) a legal adviser;

“(2) a lender;

“(3) an accountant;

“(4) an executive or manager;

“(5) a landlord;

“(6) a family member; or

“(7) a Federal or State agency with responsibility for—

“(A) enforcing a statute designed to protect a party to the contract; or

“(B) administering this Act.

“(b) EFFECT ON STATE LAWS.—Subsection (a) does not affect State laws that address confidentiality provisions in contracts for the sale or production of livestock or poultry.”.

SA 2605. 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 the following:

SEC. 1 . LEASE AND TRANSFER OF CERTAIN ALLOTMENTS AND QUOTAS.

(a) IN GENERAL.—Section 316(a)(1)(A)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)) is amended in the last sentence by inserting “(other than the 2002 crop)” 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)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)).

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study.

SA 2606. Mr. HUTCHINSON 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 . NATIONAL UNIFORMITY FOR FOOD.

(a) NATIONAL UNIFORMITY.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)) is amended—

(1) by striking “or” at the end of paragraph (4);

(2) in paragraph (5), by striking the period and inserting a comma; and

(3) by adding at the end the following:

“(6) any requirement for the labeling of food described in section 403(j), or 403(s), that is not identical to the requirement of such section, or

“(7) any requirement for a food described in section 402(a)(1), 402(a)(2), 402(a)(6), 402(a)(7), 402(c), 402(f), 402(g), 404, 406, 408, 409, 512, or 721(a), that is not identical to the requirement of such section.”

(b) UNIFORMITY IN FOOD SAFETY WARNING NOTIFICATION REQUIREMENTS.—Chapter IV of such Act (21 U.S.C. 341 et seq.) is amended—

(1) by redesignating sections 403B and 403C as sections 403C and 403D, respectively; and

(2) by inserting after section 403A the following new section:

“SEC. 403B. UNIFORMITY IN FOOD SAFETY WARNING NOTIFICATION REQUIREMENTS.

“(a) UNIFORMITY REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in subsections (c) and (d), no State or political subdivision of a State may, directly or indirectly, establish or continue in effect under any authority any notification requirement for a food that provides for a warning concerning the safety of the food, or any component or package of the food, unless such a notification requirement has been prescribed under the authority of this Act and the State or political subdivision notification requirement is identical to the notification requirement prescribed under the authority of this Act.

“(2) DEFINITIONS.—For purposes of paragraph (1)—

“(A) the term ‘notification requirement’ includes any mandatory disclosure requirement relating to the dissemination of information about a food by a manufacturer or distributor of a food in any manner, such as through a label, labeling, poster, public notice, advertising, or any other means of communication, except as provided in paragraph (3);

“(B) the term ‘warning’, used with respect to a food, means any statement, vignette, or other representation that indicates, directly or by implication, that the food presents or may present a hazard to health or safety; and

“(C) a reference to a notification requirement that provides for a warning shall not be construed to refer to any requirement or prohibition relating to food safety that does not involve a notification requirement.

“(3) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a State

from conducting the State’s notification, disclosure, or other dissemination of information, or to prohibit any action taken relating to a mandatory recall or court injunction involving food adulteration under a State statutory requirement identical to a food adulteration requirement under this Act.

“(b) REVIEW OF EXISTING STATE REQUIREMENTS.—

“(1) EXISTING STATE REQUIREMENTS; DEFERENTIAL.—Any requirement that—

“(A)(i) is a State notification requirement for a food that provides for a warning described in subsection (a) that does not meet the uniformity requirement specified in subsection (a); or

“(ii) is a State food safety requirement described in paragraph (6) or (7) of section 403A that does not meet the uniformity requirement specified in that paragraph; and

“(B) is in effect on the date of enactment of the National Uniformity for Food Act of 2000,

shall remain in effect for 180 days after that date of enactment.

“(2) STATE PETITIONS.—With respect to a State notification or food safety requirement that is described in paragraph (1), the State may petition the Secretary for an exemption or a national standard under subsection (c). If a State submits such a petition within 180 days after the date of enactment of the National Uniformity for Food Act of 2000, the notification or food safety requirement shall remain in effect until the Secretary takes all administrative action on the petition pursuant to paragraph (3), and the time periods and provisions specified in paragraph (3) shall apply in lieu of the time periods and provisions specified in subsection (c)(3) (but not the time periods and provisions specified in subsection (d)(2)).

“(3) ACTION ON PETITIONS.—

“(A) PUBLICATION.—Not later than 270 days after the date of enactment of the National Uniformity for Food Act of 2000, the Secretary shall publish a notice in the Federal Register concerning any petition submitted under paragraph (2) and shall provide 180 days for public comment on the petition.

“(B) TIME PERIODS.—Not later than 360 days after the end of the period for public comment, the Secretary shall take final agency action on the petition.

“(C) JUDICIAL REVIEW.—The failure of the Secretary to comply with any requirement of this paragraph shall constitute final agency action for purposes of judicial review. If the court conducting the review determines that the Secretary has failed to comply with the requirement, the court shall order the Secretary to comply within a period determined to be appropriate by the court.

“(c) EXEMPTIONS AND NATIONAL STANDARDS.—

“(1) EXEMPTIONS.—Any State may petition the Secretary to provide by regulation an exemption from paragraph (6) or (7) of section 403A(a) or subsection (a), for a requirement of the State or a political subdivision of the State. The Secretary may provide such an exemption, under such conditions as the Secretary may impose, for such a requirement that—

“(A) protects an important public interest that would otherwise be unprotected, in the absence of the exemption;

“(B) would not cause any food to be in violation of any applicable requirement or prohibition under Federal law; and

“(C) would not unduly burden interstate commerce, balancing the importance of the public interest of the State or political sub-

division against the impact on interstate commerce.

“(2) NATIONAL STANDARDS.—Any State may petition the Secretary to establish by regulation a national standard respecting any requirement under this Act or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) relating to the regulation of a food.

“(3) ACTION ON PETITIONS.—

“(A) PUBLICATION.—Not later than 30 days after receipt of any petition under paragraph (1) or (2), the Secretary shall publish such petition in the Federal Register for public comment during a period specified by the Secretary.

“(B) TIME PERIODS FOR ACTION.—Not later than 60 days after the end of the period for public comment, the Secretary shall take final agency action on the petition. If the Secretary is unable to take final agency action on the petition during the 60-day period, the Secretary shall inform the petitioner, in writing, the reasons that taking the final agency action is not possible, the date by which the final agency action will be taken, and the final agency action that will be taken or is likely to be taken. In every case, the Secretary shall take final agency action on the petition not later than 120 days after the end of the period for public comment.

“(4) JUDICIAL REVIEW.—The failure of the Secretary to comply with any requirement of this subsection shall constitute final agency action for purposes of judicial review. If the court conducting the review determines that the Secretary has failed to comply with the requirement, the court shall order the Secretary to comply within a period determined to be appropriate by the court.

“(d) IMMINENT HAZARD AUTHORITY.—

“(1) IN GENERAL.—A State may establish a requirement that would otherwise violate paragraph (6) or (7) of section 403A(a) or subsection (a), if—

“(A) the requirement is needed to address an imminent hazard to health that is likely to result in serious adverse health consequences or death;

“(B) the State has notified the Secretary about the matter involved and the Secretary has not initiated enforcement action with respect to the matter;

“(C) a petition is submitted by the State under subsection (c) for an exemption or national standard relating to the requirement not later than 30 days after the date that the State establishes the requirement under this subsection; and

“(D) the State institutes enforcement action with respect to the matter in compliance with State law within 30 days after the date that the State establishes the requirement under this subsection.

“(2) ACTION ON PETITION.—

“(A) IN GENERAL.—The Secretary shall take final agency action on any petition submitted under paragraph (1)(C) not later than 7 days after the petition is received, and the provisions of subsection (c) shall not apply to the petition.

“(B) JUDICIAL REVIEW.—The failure of the Secretary to comply with the requirement described in subparagraph (A) shall constitute final agency action for purposes of judicial review. If the court conducting the review determines that the Secretary has failed to comply with the requirement, the court shall order the Secretary to comply within a period determined to be appropriate by the court.

“(3) DURATION.—If a State establishes a requirement in accordance with paragraph (1), the requirement may remain in effect until the Secretary takes final agency action on a petition submitted under paragraph (1)(C).

“(e) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect the product liability law of any State.

“(f) NO EFFECT ON IDENTICAL LAW.—Nothing in this section or section 403A relating to a food shall be construed to prevent a State or political subdivision of a State from establishing, enforcing, or continuing in effect a requirement that is identical to a requirement of this Act, whether or not the Secretary has promulgated a regulation or issued a policy statement relating to the requirement.

“(g) NO EFFECT ON CERTAIN STATE LAW.—Nothing in this section or section 403A relating to a food shall be construed to prevent a State or political subdivision of a State from establishing, enforcing, or continuing in effect a requirement relating to—

“(1) freshness dating, open date labeling, grade labeling, a State inspection stamp, religious dietary labeling, organic or natural designation, returnable bottle labeling, unit pricing, or a statement of geographic origin; or

“(2) a consumer advisory relating to food sanitation that is imposed on a food establishment, or that is recommended by the Secretary, under part 3–6 of the Food Code issued by the Food and Drug Administration and referred to in the notice published at 64 Fed. Reg. 8576 (1999) (or any corresponding similar provision of such a Code).

“(h) DEFINITION.—In section 403A and this section, the term ‘requirement’, used with respect to a Federal action or prohibition, means a mandatory action or prohibition established under this Act or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.), as appropriate, or by a regulation issued under or by a court order relating to, this Act or the Fair Packaging and Labeling Act, as appropriate.”.

(c) CONFORMING AMENDMENT.—Section 403A(b) of such Act (21 U.S.C. 343–1(b)) is amended by adding at the end the following: “The requirements of paragraphs (3) and (4) of section 403B(c) shall apply to any such petition, in the same manner and to the same extent as the requirements apply to a petition described in section 403B(c).”.

SA 2607. Mr. BURNS 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 205, strike lines 8 through 11 and insert the following:

(c) MAXIMUM ENROLLMENT.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(1) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”;

(2) by striking “36,400,000” and inserting “41,100,000”; and

(3) by adding at the end the following:

“(2) PER-FARM LIMITATION.—In the case a contract entered into on or after the date of enactment of this paragraph or the expiration of a contract entered into before that date, an owner or operator may enroll not more than 50 percent of the eligible land (as described in subsection (b)) of an agricul-

tural operation of the owner or operator in the program under this subchapter.”.

SA 2608. Mr. BURNS 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 212, strike lines 13 through 15 and insert the following:

reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

“(j) PER-ACRE PAYMENT LEVELS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall conduct a study to determine, and promulgate regulations that establish in accordance with paragraph (2), per-acre values for payments for different categories of land enrolled in the conservation reserve program.

“(2) VALUES.—In carrying out paragraph (1), the Secretary shall ensure that—

“(A) the per-acre value for highly erodible land or other sensitive land (as identified by the Secretary) that is not suitable for agricultural production; is greater than

“(B) the per-acre value for land that is suitable for agricultural production (as determined by the Secretary).”.

SA 2609. Mr. ROBERTS submitted an amendment 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; as follows:

On page 797, line 4, strike the period at the end and insert a period and the following:

SEC. 787. CARBON CYCLE RESEARCH.

Section 221 of the Agricultural Risk Protection Act of 2000 (114 Stat. 407) is amended—

(1) in subsection (a), by striking “Of the amount” and all that follows through “to provide” and inserting “To the extent that funds are made available for the purpose, the Secretary shall provide”;

(2) in subsection (d), by striking “under subsection (a)” and inserting “to carry out this section”; and

(3) by adding at the end the following:

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2002 through 2011 such sums as are necessary to carry out this section.”.

SA 2610. Mr. DASCHLE (for Mr. LIEBERMAN (for himself and Mr. THOMPSON)) proposed an amendment to the bill H.R. 2657, to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the

Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in consideration of actions and proceedings in the Family Court, and for other purposes; as follows:

On page 41, line 4, strike “EXCEPTION”, and insert “EMERGENCY REASSIGNMENT”.

On page 41, line 6, strike “this Act” and insert “the District of Columbia Family Court Act of 2001”.

On page 41, line 8, strike all after “15” through line 13 and insert a dash and the following:

“(A) the chief judge may temporarily reassign judges from other divisions of the Superior Court to serve on the Family Court who meet the requirements of paragraphs (1) and (3) of subsection (b) or senior judges who meet the requirements of those paragraphs, except such reassigned judges shall not be subject to the term of service requirements set forth in subsection (c); and

“(B) the chief judge shall, within 30 days of emergency temporary reassignment pursuant to subparagraph (A), submit a report to the President and Congress describing—

“(i) the nature of the emergency;

“(ii) how the emergency was addressed, including which judges were reassigned; and

“(iii) whether and why an increase in the number of Family Court judges authorized in subsection (a)(1) may be necessary to serve the needs of families and children in the District of Columbia.

On page 42, line 20, after “Court” insert “who is reassigned on an emergency temporary basis pursuant to subsection (a)(2)”.

On page 43, beginning with line 4, strike all through line 21 and insert the following:

“(1) IN GENERAL.—Except as provided in paragraph (2), an individual assigned to serve as a judge of the Family Court of the Superior Court shall serve for a term of 5 years.

“(2) SPECIAL RULE FOR JUDGES SERVING ON SUPERIOR COURT ON DATE OF ENACTMENT OF FAMILY COURT ACT OF 2001.—

“(A) IN GENERAL.—An individual assigned to serve as a judge of the Family Court of the Superior Court who is serving as a judge of the Superior Court on the date of the enactment of the District of Columbia Family Court Act of 2001 shall serve for a term of not fewer than 3 years.

“(B) REDUCTION OF PERIOD FOR JUDGES SERVING IN FAMILY DIVISION.—In the case of a judge of the Superior Court who is serving as a judge in the Family Division of the Court on the date of the enactment of the District of Columbia Family Court Act of 2001, the 3-year term applicable under subparagraph (A) shall be reduced by the length of any period of consecutive service as a judge in such Division immediately preceding the date of the enactment of such Act.

On page 43, line 22, strike “(2)” and insert “(3)”.

On page 44, line 6, strike “(3)” and insert “(4)”.

On page 45, line 19, after “Court” insert “, including a description of how the Superior Court will handle the one family, one judge requirement pursuant to section 11–1104(a) for all cases and proceedings assigned to the Family Court.”.

On page 47, line 1, strike “PROPOSAL” and insert “PLAN”.

On page 47, beginning with line 15, strike all beginning with “The requirement” through line 19.

On page 48, line 5, after the dash, insert “The chief judge of the Superior Court should make every effort to provide for the earliest practicable disposition of actions.”.

On page 48, line 13, after "judges" insert "including senior judges as defined in section 11-1504, District of Columbia Code".

On page 48, line 15, after "judges" insert "including senior judges".

On page 48, line 18, strike "section 103(a)(3) of".

On page 48, line 19, strike "(42 U.S.C. 675(5)(E))" and insert "if applicable".

On page 48, line 19, strike "and".

On page 48, strike lines 20 through 24 and insert the following:

(i) the chief judge determines, in consultation with the presiding judge of the Family Court, based on the record in the case and any unique expertise, training, or knowledge of the case that the judge might have, that permitting the judge to retain the case would lead to permanent placement of the child more quickly than reassignment to a judge in the Family Court.

(D) PRIORITY FOR CERTAIN ACTIONS AND PROCEEDINGS.—The chief judge of the Superior Court, in consultation with the presiding judge of the Family Court, shall give priority consideration to the disposition or transfer of the following actions and proceedings:

(i) The action or proceeding involves an allegation of abuse or neglect.

(ii) The action or proceeding was initiated in the family division prior to the 2-year period which ends on the date of enactment of this Act.

(iii) The judge to whom the action or proceeding is assigned as of the date of enactment of this Act is not assigned to the Family Division.

On page 49, line 1, strike "(D)" and insert "(E)".

On page 49, line 2, strike "report" and insert "submit reports to the President".

On page 49, lines 7 and 8, strike "enactment of this Act" and insert "submission of the transition plan required under paragraph (1)".

On page 49, line 9, strike "(D)" and insert "(E)".

On page 49, after line 10, insert the following:

(F) RULE OF CONSTRUCTION.—Nothing in this subsection shall preclude the chief judge, in consultation with the presiding judge of the Family Court, from transferring actions or proceedings pending before judges outside the Family Court at the enactment of this Act which do not involve allegations of abuse and neglect but which would otherwise fall under the jurisdiction of the Family Court to judges in the Family Court prior to the deadline as defined in subparagraph 2(B), particularly if such transfer would result in more efficient resolution of such actions or proceedings.

On page 51, line 18, after "including the" insert "implementation of the".

On page 52, after line 14 insert the following:

(D) An analysis of the timeliness of the resolution and disposition of pending actions and proceedings required under the transition plan (as described in paragraphs (1)(I) and (2) of subsection (b)), including an analysis of the effect of the availability of magistrate judges on the time required to resolve and dispose of such actions and proceedings.

On page 54, line 23, strike "chapter 11" and insert "chapter 13".

On page 54, line 23, strike "title 21" and insert "title 7".

On page 54, line 24, strike "substantially" and insert "at least moderately mentally".

On page 56, line 18, strike "2(C)" and insert "2(D)".

On page 56, line 22, after "magistrate judge" insert "in the Family Court".

On page 56, line 25, after "lawful" insert "subject to subparagraph (C)".

On page 57, line 22, strike "18 months" and insert "6 months or, in extraordinary circumstances, for not more than 12 months".

On page 57, line 25, strike "section 103(a)(3) of".

On page 58, line 1, strike "(42 U.S.C. 675(E))".

On page 58, beginning with line 2, strike all through line 10 and insert the following:

(ii) if Public Law 105-89 is applicable, the chief judge determines, in consultation with the presiding judge of the Family Court, based on the record in the case and any unique expertise, training or knowledge of the case that the judge might have, that permitting the judge to retain the case would lead to permanent placement of the child more quickly than reassignment to a judge in the Family Court.

On page 69, line 12, after "appointed" insert "or assigned".

On page 69, line 14, strike "assigned to handle Family Court cases" and insert "as a magistrate judge for the Domestic Violence Unit handling actions or proceedings which would otherwise be under the jurisdiction of the Family Court".

On page 71, line 2, insert "appropriate" before "presiding judge".

On page 71, line 16, insert "appropriate" before "presiding judge".

On page 71, line 16, strike "of the Family Court".

On page 73, line 24, strike "not more than 5".

On page 74, line 5, after "subsection (a))" insert "for the purpose of assisting with the implementation of the transition plan under section 3(b) of this Act, and in particular with the transition or disposal of actions or proceedings pursuant to section 3(b)(2) of this Act".

On page 74, after line 25, insert the following:

(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude magistrate judges appointed pursuant to this subsection from performing upon appointment any or all of the functions of magistrate judges of the Family Court or Domestic Violence Unit as set forth in subsection 11-1732A(d).

On page 75, line 22, after "construction" insert "lease, or acquisition".

On page 76, line 12, beginning after "upon" strike all through line 14 and insert "enactment of this Act".

HIGHER EDUCATION ACT OF 1965 AMENDMENTS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 277, S. 1762.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1762) 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.

There being no objection, the Senate proceeded to consider the bill.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the bill be

read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

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

The bill (S. 1762) was read the third time and passed as follows:

S. 1762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTEREST RATE PROVISIONS.

(a) FFEL FIXED INTEREST RATES.—

(1) AMENDMENT.—Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a) is amended—

(A) by redesignating subsections (l) and (m) as subsections (m) and (n), respectively; and

(B) by inserting after subsection (k) the following new subsection:

"(l) INTEREST RATES FOR NEW LOANS ON OR AFTER JULY 1, 2006.—

"(1) IN GENERAL.—Notwithstanding subsection (h), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

"(2) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

"(3) CONSOLIDATION LOANS.—With respect to any consolidation loan under section 428C for which the application is received by an eligible lender on or after July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

"(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

"(B) 8.25 percent."

(2) CONFORMING AMENDMENT.—Section 428C(c)(1)(A) of such Act (20 U.S.C. 1078-3(c)(1)(A)) is amended to read as follows:

"(1) INTEREST RATE.—(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

"(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 427A(k)(4); or

"(ii) on or after July 1, 2006, the applicable interest rate shall be determined under section 427A(l)(3)."

(b) DIRECT LOANS FIXED INTEREST RATES.—

(1) TECHNICAL CORRECTION.—Paragraph (6) of section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)), as redesignated by section 8301(c)(1) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 498) is redesignated as paragraph (9) and is transferred to follow paragraph (7) of section 455(b) of the Higher Education Act of 1965.

(2) AMENDMENTS.—Section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph:

"(7) INTEREST RATE PROVISION FOR NEW

LOANS ON OR AFTER JULY 1, 2006.—

"(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this