

(E) an appeals process for electoral commissions and within the court system; and

(F) administrative penalties for election violations;

(4) urges the Government of Ukraine to meet its commitments on democratic elections, as delineated in the 1990 Copenhagen Document of the Organization for Security and Cooperation in Europe (OSCE), with respect to the campaign period and election day, and to address issues identified by the Office of Democratic Institutions and Human Rights (ODIHR) of OSCE in its final report on the 1999 presidential election, such as state interference in the campaign and pressure on the media; and

(5) calls upon the Government of Ukraine to allow election monitors from the ODIHR, other participating states of OSCE, and private institutions and organizations, both foreign and domestic, full access to all aspects of the parliamentary election process, including—

(A) access to political events attended by the public during the campaign period;

(B) access to voting and counting procedures at polling stations and electoral commission meetings on election day, including procedures to release election results on a precinct by precinct basis as they become available; and

(C) access to postelection tabulation of results and processing of election challenges and complaints.

Mr. CAMPBELL. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe, I today am introducing a resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process leading up to the March 31, 2002 parliamentary elections. I am pleased to be joined by fellow Commissioners DODD and BROWNBACK. Several of our colleagues from the House have introduced a companion resolution.

Ukraine's success as an independent, democratic state is vital to the stability and security in Europe, and that country has, over the last decade, enjoyed a strong relationship with the United States. The Helsinki Commission has monitored closely the situation in Ukraine and has a long record of support for the aspirations of the Ukrainian people for human rights and democratic freedoms. Ukraine enjoys goodwill in the Congress and remains one of our largest recipients of assistance in the world. Clearly, there is a genuine desire that Ukraine succeed as an independent, democratic, stable and economically successful state. It is against this backdrop that I introduce this resolution, as a manifestation of our concern about Ukraine's direction at this critical juncture. These parliamentary elections will be an important indication of whether Ukraine moves forward rather than backslides on the path to democratic development.

Indeed, there has been growing cause for concern about Ukraine's direction over the last few years. Last May, I chaired a Helsinki Commission hearing: "Ukraine at the Crossroads: Ten Years After Independence." Witnesses at that hearing testified about problems confronting Ukraine's democratic development, including high-level corruption, the controversial conduct of

authorities in the investigation of murdered investigative journalist Heorhiy Gongadze and other human rights problems. I had an opportunity to meet Mrs. Gongadze and her daughters who attended that hearing.

While there has been progress over the last few months with respect to legislation designed to strengthen the rule of law, it is too early to assert that Ukraine is once again moving in a positive direction.

With respect to the upcoming elections, on the positive side we have seen the passage of a new elections law which, while not perfect, has made definite improvements in providing safeguards to meet Ukraine's international commitments. However, there are already concerns about the elections, with increasing reports of violations of political rights and freedoms during the pre-campaign period, many of them documented in reports recently released by the non-partisan, non-government Committee on Voters of Ukraine, CVU.

It is important for Ukraine that there not be a repeat of the 1999 presidential elections which the Organization for Security and Cooperation in Europe, OSCE, stated were marred by violations of the Ukrainian election law and failed to meet a significant number of commitments on the conduct of elections set out in the 1990 OSCE Copenhagen Document. Therefore, this resolution urges the Ukrainian Government to enforce impartially the new election law and to meet its OSCE commitments on democratic elections and to address issues identified by the OSCE report on the 1999 presidential election such as state interference in the campaign and pressure on the media.

The upcoming parliamentary elections clearly present Ukraine with an opportunity to demonstrate its commitment to OSCE principles. The resolution we introduce today is an expression of the importance of these parliamentary elections, which could serve as an important stepping-stone in Ukraine's efforts to become a fully integrated member of the Europe-Atlantic community of nations.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2826. Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. JOHNSON, Mr. LUGAR, Mr. FITZGERALD, Mr. NELSON, of Nebraska, Mr. ENSIGN, Mr. WELLSTONE, Mr. DURBIN, Mr. TORRICELLI, Mr. KOHL, and Mr. BROWNBACK) 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 2827. Mr. LUGAR proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2828. 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 2829. 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 2830. Mrs. CARNAHAN (for herself, Mr. HUTCHINSON, Mr. HARKIN, Mr. LEAHY, and Mr. JOHNSON) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2831. 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 2832. Mr. MILLER (for himself and Mr. CLELAND) 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 2833. 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 2834. Mr. LEAHY 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 2835. Mr. CRAIG proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

#### TEXT OF AMENDMENTS

SA 2826. Mr. DORGAN (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. JOHNSON, Mr. LUGAR, Mr. FITZGERALD, Mr. NELSON of Nebraska, Mr. ENSIGN, Mr. WELLSTONE, Mr. DURBIN, Mr. TORRICELLI, Mr. KOHL, and Mr. BROWNBACK) 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 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 to read as follows:

**“SEC. 1001. PAYMENT LIMITATIONS.**

“(a) DEFINITIONS.—In this section and sections 1001A through 1001F:

“(1) BENEFICIAL INTEREST.—The term ‘beneficial interest’ means an interest in an entity that is at least—

“(A) 10 percent; or

“(B) a lower percentage, which the Secretary shall establish, on a case-by-case basis, as needed to achieve the purposes of this section and sections 1001A through 1001F, including effective implementation of section 1001A(b).

“(2) 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.

“(3) DIRECT PAYMENT.—The term ‘direct payment’ means a payment made under section 113 or 158C of the Federal Agriculture Improvement and Reform Act of 1996.

“(4) ENTITY.—

“(A) IN GENERAL.—The term ‘entity’ means—

“(i) an entity that (subject to the requirements of this section and section 1001A) is eligible to receive a payment under subsection (b) or (c);

“(ii) a corporation, joint stock company, association, limited partnership, charitable organization, a grantor of a revocable trust, or other similar entity (as determined by the Secretary); and

“(iii) an entity that is participating in a farming operation as a partner in a general partnership or as a participant in a joint venture.

“(B) EXCLUSION.—Except in section 1001F, the term ‘entity’ does not include an entity that is a general partnership or joint venture.

“(5) INDIVIDUAL.—The term ‘individual’ means—

“(A) a natural person, and minor children of the natural person (as determined by the Secretary), that (subject to the requirements of this section and section 1001A) is eligible to receive a payment under subsection (b) or (c); and

“(B) an individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary).

“(6) LOAN COMMODITY.—The term ‘loan commodity’ has the meaning given the term in section 102 of the Federal Agriculture Improvement and Reform Act of 1996.

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(b) LIMITATIONS ON DIRECT AND COUNTER-CYCLICAL PAYMENTS.—Subject to subsections (d) through (i), the total amount of direct payments and counter-cyclical payments that an individual or entity may receive, directly or indirectly, during any fiscal year shall not exceed \$85,000.

“(c) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

“(1) IN GENERAL.—Subject to subsections (d) through (i), the total amount of the payments and benefits described in paragraph (2) that an individual or entity may receive, directly or indirectly, during any crop year shall not exceed \$125,000.

“(2) PAYMENTS AND BENEFITS.—Paragraph (1) shall apply to the following payments and benefits:

“(A) 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.

“(B) LOAN DEFICIENCY PAYMENTS.—Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

“(C) 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.

“(d) 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 subsection (c)(2) attributed directly or indirectly to an individual or entity for a crop year reaches the limitation described in subsection (c)(1)—

“(1) 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; and

“(2) the Secretary may refuse to provide to the producer for the crop year any additional marketing assistance loans under section 131 or 158G(a) of that Act.

“(e) PAYMENTS TO INDIVIDUALS AND ENTITIES.—

“(1) INTERESTS WITHIN THE SAME ENTITY.—All individuals or entities that are owners of an entity, including shareholders, may not collectively receive payments directly or indirectly that are attributable to the ownership interests in the entity for a fiscal or corresponding crop year that exceed the limitations established under subsections (b) and (c).

“(2) ALL INTERESTS OF AN INDIVIDUAL OR ENTITY.—An individual or entity may not receive, directly or indirectly, through all ownership interests of the individual or entity from all sources, payments for a fiscal or corresponding crop year that exceed the limitations established under subsections (b) and (c).

“(f) MARRIED COUPLES.—During a fiscal and corresponding crop year, the total amount of payments and benefits described in subsections (b) and (c) that a married couple may receive directly or indirectly may not exceed—

“(1) the limits described in subsections (b) and (c); plus

“(2) if each spouse meets the other requirements established under this section and section 1001A, a combined total of an additional \$50,000.

“(g) 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.

“(h) TIME LIMITS.—The Secretary shall promulgate regulations that establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes.

“(i) GOOD FAITH RELIANCE.—Notwithstanding any other provision of law, an action taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of this section or section 1001A, to the extent the Secretary determines it is desirable in order to provide fair and equitable treatment.”.

(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 QUALIFY 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)(3)(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 or benefits (as described in subsections (b) and (c) 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)—

(i) in subparagraph (A)(i), by striking subclause (II) and inserting the following:

“(II) personal labor and active personal management (in accordance with subparagraph (F));”;

(ii) by striking subparagraph (B) and inserting the following:

“(B) ENTITIES.—An entity (as defined in section 1001(a)) shall be considered as actively engaged in farming with respect to a farming operation if—

“(i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

“(ii)(I) the stockholders or members that collectively own at least 50 percent of the combined beneficial interest in the entity make a significant contribution of personal labor or active personal management to the operation; or

“(II) in the case of a corporation or entity in which all of the beneficial interests are held by family members (as defined in paragraph (3)(B))—

“(aa) any stockholder (or household comprised of a stockholder and the spouse of the stockholder) who owns at least 10 percent of the beneficial interest and makes a significant contribution of personal labor or active personal management; or

“(bb) any combination of stockholders who collectively own at least 10 percent of the beneficial interest and makes a significant contribution of personal labor or active personal management; and

“(iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity.”; and

(iii) 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

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.

“(F) SIGNIFICANT CONTRIBUTION OF PERSONAL LABOR OR ACTIVE PERSONAL MANAGEMENT.—

“(i) IN GENERAL.—For an individual to be considered to be providing a significant contribution of personal labor or active personal management under this paragraph on behalf of the individual or entity, the total contribution of personal labor and active personal management shall be at least equal to the lesser of—

“(I) 1000 hours annually; or

“(II) 50 percent of the commensurate share of the total number of hours of personal labor and active personal management required to conduct the farming operation.

“(ii) MINIMUM NUMBER OF LABOR HOURS.—For the purpose of clause (i), 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.”;

(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 and that meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A), if—

“(i) the landowner share rents the land;

“(ii) the tenant is actively engaged in farming; and

“(iii) the share received by the landowner is commensurate with the share of the crop or income received as rent; or

“(iv)(I) the landowner makes a significant contribution of active personal management;

“(II) the landowner formerly made a significant contribution of personal labor or active personal management on the land for which payments are received and ceased to make the contribution as a result of a disability, as determined by the Secretary; or

“(III) the landowner or spouse of the landowner formerly made a significant contribution of personal labor or active personal management on the land for which payments are received and ceased to make the contribution as a result of death or retirement, and 1 or more family members of the landowner currently make a significant contribution of personal labor or active personal management on the land.”; 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) in paragraph (5)—

(i) by striking “A person” and inserting “An individual or entity”; and

(ii) by striking “such person” and inserting “the individual or entity”; and

(F) in paragraph (6), by striking “a person” and inserting “an individual or entity”.

(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—

(A) by striking “person” each place it appears and inserting “individual or entity”; and

(B) by striking “paragraphs (1) and (2)” and inserting “subsections (b) and (c)”.

(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 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) ADJUSTED GROSS 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. ADJUSTED GROSS INCOME LIMITATION.

“(a) DEFINITIONS.—In this section:

“(1) ADJUSTED GROSS INCOME.—The term ‘adjusted gross income’ means adjusted gross income of an individual or entity—

“(A) as defined in section 62 of the Internal Revenue Code of 1986 and implemented in accordance with procedures established by the Secretary; and

“(B) that is earned directly or indirectly from all agricultural and nonagricultural sources of an individual or entity for a fiscal or corresponding crop year.

“(2) AVERAGE ADJUSTED GROSS INCOME.—

“(A) IN GENERAL.—The term ‘average adjusted gross income’ means the average adjusted gross income of an individual or entity for each of the 3 preceding taxable years.

“(B) EFFECTIVE ADJUSTED GROSS INCOME.—In the case of an individual or entity that does not have an adjusted gross income for each of the 3 preceding taxable years, the Secretary shall establish rules that provide the individual or entity with an effective adjusted gross income for the applicable year.

“(b) 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 individual or entity shall not be eligible for a payment or benefit described in subsection (b) or (c) of section 1001 if the average adjusted gross income of the individual or entity exceeds \$2,500,000.

“(c) CERTIFICATION.—To comply with the limitation under subsection (b), an individual or entity shall provide to the Secretary—

“(1) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the individual or entity does not exceed \$2,500,000; or

“(2) information and documentation regarding the adjusted gross income of the individual or entity through other procedures established by the Secretary.

“(d) COMMENSURATE REDUCTION.—In the case of a payment or benefit made in a fiscal year or corresponding crop year to an entity that has an average adjusted gross income of \$2,500,000 or less, the payment shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity of each individual who has an average adjusted gross income in excess of \$2,500,000 for that fiscal year or corresponding crop year.

“(e) GENERAL PARTNERSHIPS AND JOINT VENTURES.—For purposes of this section, a joint partnership or joint venture shall be considered an entity.”.

(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. 104(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) EXCESS SHELTER EXPENSE DEDUCTION.—

(A) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—

(i) in clause (v), by striking “and” at the end; and

(ii) 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, \$624, \$526, \$458, and \$307 per month, respectively; and

“(viii) for fiscal years 2004 and each fiscal year thereafter, the applicable amount for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.”.

(B) PROSPECTIVE AMENDMENTS.—Effective October 1, 2009, section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B).

(3) 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”.

(4) 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”.

(5) 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 \_\_\_\_ ) 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 \_\_\_\_ ) is amended by striking “A producer” and inserting “Effective for the 2001 through 2006 crops, a producer”.

(e) LOAN AUTHORIZATION LEVELS.—Section 346(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)) (as amended by section \_\_\_\_ ) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 for not more than \$3,796,000,000 for each of fiscal years 2002 through 2006, of which, for each fiscal year—

“(A) \$770,000,000 shall be for direct loans, of which—

“(i) \$205,000,000 shall be for farm ownership loans under subtitle A; and

“(ii) \$565,000,000 shall be for operating loans under subtitle B; and

“(B) \$3,026,000,000 shall be for guaranteed loans, of which—

“(i) \$1,000,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

“(ii) \$2,026,000,000 shall be for guarantees of operating loans under subtitle B.”.

(f) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—In addition to funds made available under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107-76), the Secretary of Agriculture shall use \$5,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to make loans described in section 346(b)(2)(A)(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(2)(A)(i)).

(g) 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 \_\_\_\_ ) 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”.

(h) SPECIALTY CROP INSURANCE INITIATIVE.—

(1) RESEARCH AND DEVELOPMENT FUNDING.—Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended by striking paragraph (1) and inserting the following:

“(1) REIMBURSEMENTS.—Of the amounts made available from the insurance fund established under 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) \$27,500,000 for each of fiscal years 2003 and 2004;

“(C) \$25,000,000 for each of fiscal years 2005 and 2006; and

“(D) \$15,000,000 for fiscal year 2007 and each subsequent fiscal year.”.

(2) 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 fiscal year 2003;

“(ii) \$13,000,000 for fiscal year 2004;

“(iii) \$15,000,000 for each of fiscal years 2005 and 2006; and

“(iv) \$5,000,000 for fiscal year 2007 and each subsequent fiscal year; and”.

(3) REPORTS.—Not later than September 30, 2002, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(A) the progress made by the Corporation in research and development of innovative risk management products to include cost of production insurance that provides coverage for specialty crops, paying special attention to apples, asparagus, blueberries (wild and domestic), cabbage, canola, carrots, cherries, Christmas trees, citrus fruits, cucumbers, dry beans, eggplants, 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;

(B) the progress made by the Corporation in increasing the use of risk management products offered through the Corporation by producers of specialty crops, by small and moderate sized farms, and in areas that are underserved, as determined by the Secretary; and

(C) how the additional funding provided under the amendments made by this section has been used.

(i) EFFECTIVE DATE.—This section and the amendments made by this section take effect 1 day after the date of enactment of this Act.

**SA 2827.** Mr. LUGAR proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

Strike title I and insert the following:

## TITLE I—COMMODITY PROGRAMS

### SEC. 101. SHORT TITLE.

This title may be cited as the “Equity in Farming Act”.

### Subtitle A—Equity Payments to Agricultural Producers

### SEC. 111. DEFINITIONS.

In this subtitle:

(1) ADJUSTED GROSS REVENUE.—The term “adjusted gross revenue” means the adjusted gross income for all agricultural enterprises of a producer in an applicable 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)); and

(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.

(2) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term “agricultural commodity” means any agricultural commodity, food, feed, fiber, or livestock.

(B) TOBACCO.—The term “agricultural commodity” does not include tobacco.

(3) AGRICULTURAL ENTERPRISE.—The term “agricultural enterprise” means the production and marketing of all agricultural commodities (including livestock) on a farm or ranch.

(4) APPLICABLE YEAR.—The term “applicable year” means the year during which the producer elects to receive an equity payment under section 112.

(5) 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, as determined by the Secretary through—

(i) a certification provided by a certified public accountant or another third party that is acceptable to the Secretary; or

(ii) information and documentation regarding the adjusted gross income revenue of the producer through other procedures established by the Secretary; and

(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 adjusted gross revenue of the producer that will be earned from all agricultural enterprises for the applicable year, as determined by the Secretary.

(6) ENTITY.—

(A) IN GENERAL.—The term “entity” means—

(i) a corporation, joint stock company, association, limited partnership, charitable organization, a grantor of a revocable trust, or other similar entity (as determined by the Secretary); and

(ii) an entity that is participating in a farming operation as a partner in a general partnership or as a participant in a joint venture.

(B) EXCLUSION.—The term “entity” does not include an entity that is a general partnership or joint venture.

(7) INDIVIDUAL.—The term “individual” means—

(A) a natural person, and minor children of the natural person (as determined by the Secretary); and

(B) an individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary).

(8) 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) has a share of the profits or losses from the farming operation that is commensurate with the contributions of the individual or entity to the operation; and

(D) (i) has earned at least \$20,000 in average adjusted gross revenue for each of the preceding 5 taxable years; or

(ii) 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 adjusted gross revenue from all agricultural enterprises for the applicable year, as determined by the Secretary.

(9) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

## SEC. 112. EQUITY PAYMENTS TO AGRICULTURAL PRODUCERS.

(a) IN GENERAL.—Each producer of an agricultural commodity (as determined by the Secretary) shall receive a payment that equals \$7,000 for each of the 2003 through 2006 crops or, in the case of milk, the 2003 through 2006 calendar years.

(b) ADDITIONAL PAYMENTS.—Equity payments received by a producer under this section shall be in addition to any price support loan, marketing loan gain, or loan deficiency payment that the producer receives for the applicable year.

(c) INELIGIBLE ENTITIES.—An entity shall be ineligible to receive an equity payment under this section if the entity is—

(1) an agency of the Federal Government, a State, or a political subdivision of a State;

(2) an issuer of any type of security on a national securities exchange (as those terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)); or

(3) another entity, as determined by the Secretary.

(d) VERIFICATION.—The Secretary shall determine which individuals or entities are eligible for an equity payment under this section by using social security numbers or taxpayer identification numbers.

(e) PAYMENT LIMITATION.—

(1) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

“(1) EQUITY PAYMENTS.—

“(A) IN GENERAL.—An individual or entity (as defined in the Equity in Farming Act) may not receive directly or indirectly more than \$7,000 in equity payments under that Act.

“(B) ADMINISTRATION.—Sections 1001A(b), 1001B, and 1001C shall apply to an individual or entity that receives a payment described in subparagraph (A).”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(i) by striking paragraph (4) and inserting the following:

“(4) PAYMENTS TO INDIVIDUALS AND ENTITIES.—

“(A) INTERESTS WITHIN THE SAME ENTITY.—All individuals or entities that are owners of an entity, including shareholders, may not collectively receive payments directly or indirectly that are attributable to the ownership interests in such entity for a fiscal or corresponding crop year that exceed the limitation established under paragraph (1).

“(B) ALL INTERESTS OF AN INDIVIDUAL OR ENTITY.—An individual or entity may not receive, directly or indirectly, through all ownership interests of the individual or entity from all sources, payments for a fiscal or corresponding crop year that exceed the limitations established under paragraph (1).”;

(ii) in paragraph (5)—

(I) by striking subparagraphs (A), (B), (C), and (E); and

(II) in subparagraph (D), by striking “(D)”;

(iii) by striking paragraph (6); and

(iv) by redesignating paragraph (7) as paragraph (6).

(B) Section 1009 of the Food Security Act of 1985 (7 U.S.C. 1308a) is amended—

(i) in subsection (a), by striking “subsection (c), (d), or (e)” and inserting “subsection (c) or (d)”;

(ii) by striking subsection (d); and

(iii) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(g) CROP AND CALENDAR YEARS.—This section and the amendments made by this section apply to each of the 2003 through 2006 crop or calendar years, as applicable.

## Subtitle B—Phase Out of Commodity Programs

### SEC. 121. PROHIBITION ON AGRICULTURAL PRICE SUPPORT AND PRODUCTION ADJUSTMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, except as otherwise provided in this subtitle and effective beginning with the 2003 crop or the 2003 marketing, fiscal, or calendar year (as applicable) for each agricultural commodity, the Secretary of Agriculture and the Commodity Credit Corporation may not provide loans, purchases, payments, or other operations or take any other action to support the price, or adjust or control the production, of an agricultural commodity by using the funds, facilities, and authorities of the Commodity Credit Corporation or under the authority of any law.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any activities under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Act of 1937;

(2) section 32 of the Act of August 24, 1935 (7 U.S.C. 612c; 49 Stat. 774, chapter 641);

(3) part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.); and

(4) sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445-1, 1445-2).

### SEC. 122. AGRICULTURAL MARKET TRANSITION ACT.

(a) REPEALS.—

(1) 2003 AND SUBSEQUENT CROPS.—Effective beginning with the 2003 crop, the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) is repealed, other than the following:

(A) Subtitle A (7 U.S.C. 7201 et seq.).

(B) Sections 131, 132, and 133 (7 U.S.C. 7231, 7232, 7233).

(C) Subsections (a) through (d) of section 134 (7 U.S.C. 7234).

(D) Section 135 (7 U.S.C. 7235).

(E) Sections 141 and 142 (7 U.S.C. 7251, 7252).

(F) Chapter 2 of subtitle D (7 U.S.C. 7271 et seq.).

(G) Sections 161 through 165 (7 U.S.C. 7281 et seq.).

(H) Subtitle H (7 U.S.C. 7331 et seq.).

(2) 2003 AND SUBSEQUENT CALENDAR YEARS.—Effective January 1, 2003, sections 141 and 142 of the Agricultural Market Transition Act (7 U.S.C. 7251, 7252) are repealed.

(3) 2006 AND SUBSEQUENT CROPS.—Effective beginning with the 2006 crop, the following provisions of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) are repealed:

(A) Subtitle C (7 U.S.C. 7231 et seq.).

(B) Chapter 2 of subtitle D (7 U.S.C. 7271 et seq.), other than section 156(f) (7 U.S.C. 7272(f)).

(b) AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS.—Section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231) is amended —

(1) in subsection (a) by striking “2002” and inserting “2005”; and

(2) by striking subsection (b) and inserting the following:

“(b) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.”.

(c) LOAN RATES FOR MARKETING ASSISTANCE LOANS.—Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) is amended to read as follows:

### “SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

“(a) WHEAT.—The loan rate for a marketing assistance loan under section 131 for wheat shall be 90 percent for the 2003 crop, 85

percent for the 2004 crop, and 80 percent for the 2005 crop, of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

“(b) FEED GRAINS.—

“(1) CORN.—The loan rate for a marketing assistance loan under section 131 for corn shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, and 80 percent for the 2005 crop, of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

“(2) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

“(c) UPLAND COTTON.—The loan rate for a marketing assistance loan under section 131 for upland cotton shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, and 80 percent for the 2005 crop, of the simple average price received by producers of upland cotton, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of upland cotton, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

“(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, and 80 percent for the 2005 crop, of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of extra long staple cotton, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

“(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, and 80 percent for the 2005 crop, of the simple average price received by producers of rice, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

“(f) OILSEEDS.—

“(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, and 80 percent for the 2005 crop, of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

“(2) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be 90 percent

for the 2003 crop, 85 percent for the 2004 crop, and 80 percent for the 2005 crop, of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

“(3) OTHER OILSEEDS.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.”

(d) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is repealed.

(e) PEANUT PROGRAM.—Section 155 of the Agricultural Market Transition Act (7 U.S.C. 7271) is amended—

(1) in subsection (g), by striking “2002” each place it appears and inserting “2005”; and

(2) by striking subsections (h) and (i) and inserting the following:

“(h) PHASED REDUCTION OF LOAN RATE.—For each of the 2003, 2004, and 2005 crops of quota and additional peanuts, the Secretary shall lower the loan rate for each succeeding crop in a manner that progressively and uniformly lowers the loan rate for quota and additional peanuts to \$0 for the 2006 crop.

“(i) CROPS.—This section shall be effective only for the 1996 through 2005 crops.”

(f) SUGAR PROGRAM.—Section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272) is amended—

(1) in subsection (e), by striking paragraph (1) and inserting the following:

“(1) LOANS.—The Secretary shall carry out this section through the use of recourse loans.”;

(2) in subsection (f), by striking “2003” each place it appears and inserting “2005”;

(3) by redesignating subsection (i) as subsection (j);

(4) by inserting after subsection (h) the following:

“(i) PHASED REDUCTION OF LOAN RATE.—For each of the 2003, 2004, and 2005 crops of sugar beets and sugarcane, the Secretary shall lower the loan rate for each succeeding crop in a manner that progressively and uniformly lowers the loan rate for sugar beets and sugarcane to \$0 for the 2006 crop.”; and

(5) in subsection (j) (as redesignated), by striking “2002” and inserting “2005”.

#### SEC. 123. AGRICULTURAL ADJUSTMENT ACT OF 1938.

(a) REPEALS.—

(1) 2003 AND SUBSEQUENT MARKETING YEARS AND CROPS.—Effective beginning with the 2003 marketing or crop year (as applicable), the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is repealed, other than the following:

(A) The first section (7 U.S.C. 1281).

(B) Section 301 (7 U.S.C. 1301).

(C) Part I of subtitle B of title III (7 U.S.C. 1311 et seq.).

(D) Part VI of subtitle B of title III (7 U.S.C. 1357 et seq.).

(E) Subtitle C of title III (7 U.S.C. 1361 et seq.).

(F) Subtitle F of title III (7 U.S.C. 1381 et seq.).

(G) Title V (7 U.S.C. 1501 et seq.).

(2) 2006 AND SUBSEQUENT MARKETING YEARS AND CROPS.—Effective beginning with the 2006 marketing year or crop year (as applicable), part VI of subtitle B of title III (7 U.S.C. 1357 et seq.) is repealed.

(b) PEANUT QUOTA.—

(1) EXTENSION.—Sections 358-1, 358b(c), 358c(d), and 358e(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1, 1358b(c), 1358c(d), 1359a(i)) are amended by striking “2002” each place it appears and inserting “2005”.

(2) PEANUT QUOTA.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) is amended by adding at the end the following:

#### “SEC. 358f. PHASED INCREASE IN QUOTA.

“For each of the 2003, 2004, and 2005 crops of quota peanuts, the Secretary shall increase the marketing quota and allotment for each succeeding marketing year in a manner that progressively and uniformly increases the marketing quota to anticipate the elimination of the marketing quota for the 2006 crop.”.

#### SEC. 124. COMMODITY CREDIT CORPORATION CHARTER ACT.

(a) IN GENERAL.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (g) as subsections (a) through (f), respectively.

(b) CONFORMING AMENDMENT.—Section 619 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738r) is amended by striking “section 5(f) of the Commodity Credit Corporation Charter Act” and inserting “section 5(e) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(e))”.

(c) CROPS.—The amendments made by this section apply beginning with the 2006 crop.

#### SEC. 125. AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is repealed, other than the following:

(1) The first section (7 U.S.C. 1421 note).

(2) Sections 106, 106A, and 106B (7 U.S.C. 1445, 1445-1, 1445-2).

(3) Section 416 (7 U.S.C. 1431).

#### SEC. 126. AGRICULTURAL ADJUSTMENT ACT.

Effective January 1, 2003, 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) MILK CLASSES.—

“(i) IN GENERAL.—Notwithstanding any other provision of this subsection, the Secretary shall establish—

“(I) 1 class of milk for fluid milk; and

“(II) 1 class of milk for other uses of milk.

“(ii) COMPONENT PRICES.—The classes of milk established under clause (i) shall be used to determine the prices of milk components.”.

#### SEC. 127. CROP.

This subtitle and the amendments made by this subtitle apply beginning with the 2003 crop of each agricultural commodity or the 2003 marketing, reinsurance, fiscal, or calendar year, as applicable.

#### Subtitle C—Effective Date

#### SEC. 141. EFFECT OF TITLE.

(a) IN GENERAL.—Except as otherwise specifically provided in this title and notwithstanding any other provision of law, this title and the amendments made by this title shall not affect the authority of the Secretary of Agriculture to carry out an agricultural market transition, price support, or production adjustment program for any of the 1996 through 2002 crops, or for any of the 1996 through 2002 marketing, reinsurance, fiscal, or calendar years, as applicable, under a provision of law in effect immediately before the enactment of this title.

(b) LIABILITY.—A provision of this title or an amendment made by this title shall not



affect the liability of any person under any provision of law as in effect immediately before of enactment of this title.

**SA 2828.** 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 the 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. . PERMANENT REENACTMENT OF CHAPTER 12.**

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277, 112 Stat. 2681-610), is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall deemed to have taken effect on October 1, 2000.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f)."

**SA 2829.** 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 the 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 143 and insert a period and the following:

**SEC. 144. REALLOCATION OF SUGAR QUOTA.**

Subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is amended by adding at the end the following:

**"PART VIII—REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS**

**"SEC. 360. REALLOCATING CERTAIN SUGAR QUOTAS.**

"(a) IN GENERAL.—Notwithstanding any other provision of law, not later than June 1 of each year, the United States Trade Representative, in consultation with the Secretary, shall determine the amount of the quota of cane sugar used by each qualified supplying country for that fiscal year, and shall reallocate the unused quota for that fiscal year among qualified supplying countries on a first come basis.

"(b) METHOD FOR ALLOCATING QUOTA.—In establishing the tariff-rate quota for a fiscal year, the Secretary shall consider the amount of the preceding year's quota that was not used and shall increase the tariff-rate quota allowed by an amount equal to the amount not used in the preceding year.

"(c) DEFINITIONS.—In this section:

"(1) QUALIFIED SUPPLYING COUNTRY.—The term 'qualified supplying country' means

one of the following 40 foreign countries that is allowed to export cane sugar to the United States under an agreement or any other country with which the United States has an agreement relating to the importation of cane sugar:

Argentina  
Australia  
Barbados  
Belize  
Bolivia  
Brazil  
Colombia  
Congo  
Costa Rica  
Dominican Republic  
Ecuador  
El Salvador  
Fiji  
Gabon  
Guatemala  
Guyana  
Haiti  
Honduras  
India  
Ivory Coast  
Jamaica  
Madagascar  
Malawi  
Mauritius  
Mexico  
Mozambique  
Nicaragua  
Panama  
Papua New Guinea  
Paraguay  
Peru  
Philippines  
St. Kitts and Nevis  
South Africa  
Swaziland  
Taiwan  
Thailand  
Trinidad-Tobago  
Uruguay  
Zimbabwe.

"(2) CANE SUGAR.—The term 'cane sugar' has the same meaning as the term has under part VII."

**SA. 2830.** Mrs. CARNAHAN (for herself, Mr. HUTCHINSON, Mr. HARKIN, Mr. LEAHY, and Mr. JOHNSON) 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:

At the appropriate place, insert the following:

**SEC. . REENACTMENT OF FAMILY FARMER BANKRUPTCY PROVISIONS.**

(a) REENACTMENT.—Notwithstanding any other provision of law, chapter 12 of title 11, United States Code, is hereby reenacted.

(b) CONFORMING REPEAL.—Section 303(f) of Public Law 99-554 (100 Stat. 3124) is repealed.

(c) EFFECTIVE DATE.—This section shall be deemed to have taken effect on October 1, 2001.

**SA 2831.** 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 128, line 8, strike the period at the end and insert a period and the following:

**SEC. 1. . TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.**

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking " , except tobacco, "; and

(B) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445-1, 1445-2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking "tobacco."

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98-59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the Corporation Charter Act (15 U.S.C. 714c) is amended by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

(f) TRANSITION PROVISIONS.—

(1) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) TOBACCO STOCKS AND LOANS.—The Secretary shall issue regulations that require—

(A) the orderly disposition of tobacco stocks; and

(B) the repayment of all tobacco price support loans by not later than 1 year after the effective date of this section.

(g) CROPS.—This section and the amendments made by this section shall apply with respect to the 2002 and subsequent crops of the kind of tobacco involved.

**SEC. 1. . TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.**

(a) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,"

(b) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,"

(3) in paragraph (7), by striking the following:

"tobacco (flue-cured), July 1—June 30;

"tobacco (other than flue-cured), October 1—September 30;";

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking "and tobacco";

(6) in paragraph (12), by striking “to-bacco,”;

(7) in paragraph (14)—

(A) in subparagraph (A), by striking “(A)”;

and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) **PARITY PAYMENTS.**—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking “rice, or tobacco,” and inserting “or rice.”

(d) **MARKETING QUOTAS.**—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) **ADMINISTRATIVE PROVISIONS.**—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking “tobacco.”

(f) **ADJUSTMENT OF QUOTAS.**—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking “peanuts, or tobacco” and inserting “or peanuts”;

(2) in the first sentence of subsection (b), by striking “peanuts or tobacco” and inserting “or peanuts”.

(g) **REPORTS AND RECORDS.**—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking “peanuts, or tobacco” each place it appears in subsections (a) and (b) and inserting “or peanuts”; and

(2) in subsection (a)—

(A) in the first sentence, by striking “all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,”; and

(B) in the last sentence, by striking “\$500,” and all that follows through the period at the end of the sentence and inserting “\$500.”

(h) **REGULATIONS.**—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking “peanuts, or tobacco” and inserting “or peanuts”.

(i) **EMINENT DOMAIN.**—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking “cotton, tobacco, and peanuts” and inserting “cotton and peanuts”; and

(2) by striking subsections (d), (e), and (f).

(j) **BURLEY TOBACCO FARM RECONSTITUTION.**—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking “(a)”;

(B) in paragraph (6), by striking “, but this clause (6) shall not be applicable in the case of burley tobacco”; and

(2) by striking subsections (b) and (c).

(k) **ACREAGE-POUNDS QUOTAS.**—Section 4 of the Act entitled “An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes”, approved April 16, 1965 (Public Law 89-12; 7 U.S.C. 1314c note), is repealed.

(l) **BURLEY TOBACCO ACREAGE ALLOTMENTS.**—The Act entitled “An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended”, approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) **TRANSFER OF ALLOTMENTS.**—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) **ADVANCE RECOURSE LOANS.**—Section 13(a)(2)(B) of the Food Security Improvement Act of 1986 (7 U.S.C. 1433c-1(a)(2)(B)) is amended by striking “tobacco and”.

(o) **TOBACCO FIELD MEASUREMENT.**—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended by striking subsection (c).

(p) **LIABILITY.**—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) **CROPS.**—This section and the amendments made by this section shall apply with respect to the 2002 and subsequent crops of the kind of tobacco involved.

#### **SEC. 1. PROHIBITION OF FEDERAL INSURANCE, REINSURANCE, OR NON-INSURED CROP DISASTER ASSISTANCE FOR TOBACCO.**

(a) **CROP INSURANCE.**—

(1) **DEFINITION OF AGRICULTURAL COMMODITY.**—Section 518 of the Federal Crop Insurance Act (7 U.S.C. 1518) is amended—

(A) by striking the section heading and all that follows through “as used in this title, means” and inserting the following:

“**SEC. 518. DEFINITION OF AGRICULTURAL COMMODITY.**

“(a) **DEFINITION.**—In this title, the term ‘agricultural commodity’ means”;

(B) by striking “tobacco,”; and

(C) by adding at the end the following:

“(b) **EXCEPTION.**—In this title, the term ‘agricultural commodity’ does not include tobacco. The Corporation may not insure, provide reinsurance for insurers of, or pay any part of the premium related to the coverage of a crop of tobacco.”

(2) **CONFORMING AMENDMENTS.**—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 “cases of tobacco and” and inserting “case of”.

(b) **NONINSURED CROP DISASTER ASSISTANCE.**—Section 196(a)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)(2)) is amended by adding at the end the following:

“(D) **CROPS SPECIFICALLY EXCLUDED.**—The term ‘eligible crop’ does not include tobacco. The Secretary may not make assistance available under this section to cover losses to a crop of tobacco.”

(c) **APPLICATION OF AMENDMENTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the amendments made by this section shall apply with respect to the 2002 and subsequent crops of tobacco.

(2) **EXISTING CONTRACTS.**—The amendments made by this section shall not apply to a contract of insurance of the Federal Crop Insurance Corporation, or a contract of insurance reinsured by the Corporation, in existence on the date of enactment of this Act.

**SA 2832.** Mr. MILLER (for himself and Mr. CLELAND) 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 120, line 3, strike “\$0.10” and insert “\$0.12”.

**SA 2833.** 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 128, line 8, strike the final period and insert a period and the following:

**Subtitle** —EMERGENCY AGRICULTURE ASSISTANCE

#### **SEC. 01. 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 in calendar year 2001, including losses due to army worms.

(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 106-387; 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. 02. 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 106-387; 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. 03. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.**

(a) **IN GENERAL.**—The Secretary of Agriculture shall use \$100,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to make payments to apple producers, as soon as practicable after the date of enactment of this Act, for the loss of markets during the 2000 crop year.

(b) **PAYMENT QUANTITY.**—A payment to the producers on a farm for the 2000 crop year under this section shall be made on the lesser of—

(1) the quantity of apples produced by the producers on the farm during the 2000 crop year; or

(2) 5,000,000 pounds of apples.

(c) **LIMITATIONS.**—The Secretary shall not establish a payment limitation, or income eligibility limitation, with respect to payments made under this section.



**SEC. 04. COMMODITY CREDIT CORPORATION.**

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subtitle.

**SEC. 05. 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. 06. 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.

**SEC. 07. EMERGENCY REQUIREMENT.**

The entire amount necessary to carry out this subtitle is designated by Congress as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)).

**SA 2834.** Mr. LEAHY 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 985, strike line 1 and insert the following:

**Subtitle D—Organic Products Promotion****SEC. 1081. SHORT TITLE.**

This subtitle may be cited as the "Organic Products Promotion, Research, and Information Act of 2002".

**SEC. 1082. DEFINITIONS.**

In this subtitle:

(1) **AGRICULTURAL COMMODITY.**—The term "agricultural commodity" means—

(A) agricultural, horticultural, viticultural, and dairy products;

(B) livestock and the products of livestock;

(C) the products of poultry and bee raising;

(D) the products of forestry;

(E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

(2) **BOARD.**—The term "Board" means the National Organic Products Board established under section 1084(b).

(3) **COMMODITY PROMOTION LAW.**—The term "commodity promotion law" has the meaning given the term in section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a)).

(4) **CONFLICT OF INTEREST.**—The term "conflict of interest" means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, the Board for anything of economic value.

(5) **DEPARTMENT.**—The term "Department" means the Department of Agriculture.

(6) **FIRST HANDLER.**—The term "first handler" means—

(A) the first person that buys or takes possession of an organic product from a producer for marketing; and

(B) in a case in which a producer markets an organic product directly to consumers, the producer.

(7) **IMPORTER.**—The term "importer" means any person that imports an organic product from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(8) **INFORMATION.**—The term "information" means information and programs that are designed to increase—

(A) efficiency in processing; and

(B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of organic products on a national or international basis.

(9) **MARKET.**—The term "market" means to sell or to otherwise dispose of an organic product in interstate, foreign, or intrastate commerce.

(10) **ORDER.**—The term "order" means the order issued by the Secretary under section 1083 that provides for a program of generic promotion, research, and information regarding organic products designed to—

(A) strengthen the position of organic products in the marketplace;

(B) maintain and expand existing domestic and foreign markets and uses for organic products;

(C) develop new markets and uses for organic products; or

(D) assist producers in meeting conservation objectives.

(11) **ORGANICALLY PRODUCED.**—The term "organically produced", with respect to an agricultural product, means produced and handled in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(12) **ORGANIC PRODUCT.**—The term "organic product" means an agricultural product that is organically produced.

(13) **ORGANIC PRODUCTS INDUSTRY.**—The term "organic products industry" includes nonprofit and other organizations representing the interests of producers, first handlers, and importers of organic products.

(14) **PERSON.**—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(15) **PRODUCER.**—The term "producer" means any person that is engaged in the production and sale of an organic product in the United States.

(16) **PROMOTION.**—The term "promotion" means any action taken by the Board under the order, including paid advertising, to present a favorable image of organic products to the public to improve the competitive position of organic products in the marketplace and to stimulate sales of organic products.

(17) **RESEARCH.**—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an organic product.

(18) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

(19) **STATE.**—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(20) **SUSPEND.**—The term "suspend" means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of the order during a particular period of time specified in the rule.

(21) **TERMINATE.**—The term "terminate" means to issue a rule under section 553 of title 5, United States Code, to cancel permanently the operation of the order beginning on a date certain specified in the rule.

(22) **UNITED STATES.**—The term "United States", when used in a geographical sense, means all of the States.

**SEC. 1083. ISSUANCE OF ORDERS.**

(a) **ORDER.**—

(1) **IN GENERAL.**—To effectuate the purpose of this subtitle, the Secretary may issue, and amend from time to time, an order applicable to—

(A) producers of organic products;

(B) the first handlers of organic products (and other persons in the marketing chain, as appropriate); and

(C) the importers of organic products.

(2) **NATIONAL SCOPE.**—The order shall be national in scope.

(b) **PROCEDURE FOR ISSUANCE.**—

(1) **DEVELOPMENT OR RECEIPT OF PROPOSED ORDER.**—A proposed order with respect to organic products may be—

(A) prepared by the Secretary at any time on or after January 1, 2004; or

(B) submitted to the Secretary on or after January 1, 2004 by—

(i) an association of producers of organic products; or

(ii) any other person that may be affected by the issuance of the order with respect to organic products.

(2) **CONSIDERATION OF PROPOSED ORDER.**—If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subtitle, the Secretary shall—

(A) publish the proposed order in the Federal Register; and

(B) give due notice and opportunity for public comment on the proposed order.

(3) **PREPARATION OF FINAL ORDER.**—After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall—

(A) take into consideration the comments received in preparing a final order; and

(B) ensure, to the maximum extent practicable, that the final order is in conformity with the terms, conditions, and requirements of this subtitle.

(c) **ISSUANCE AND EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), if the Secretary determines that the order is consistent with and will effectuate the purpose of this subtitle, the Secretary shall issue the final order.

(2) **EXCEPTION.**—Paragraph (1) shall not apply in a case in which an initial referendum is conducted under section 1087(a).

(3) **EFFECTIVE DATE.**—The final order shall be issued and shall take effect not later than 270 days after the date of publication of the proposed order that was the basis for the final order.

**SEC. 1084. REQUIRED TERMS IN ORDER.**

(a) **IN GENERAL.**—The order shall contain the terms and conditions specified in this section.

(b) **BOARD.**—

(1) **ESTABLISHMENT.**—The order shall establish a National Organic Products Board to carry out a program of generic promotion, research, and information relating to organic products that effectuates the purposes of this subtitle.

(2) **BOARD MEMBERSHIP.**—

(A) **NUMBER OF MEMBERS.**—

(i) **IN GENERAL.**—The Board shall consist of the number of members determined by the Secretary, in consultation with the organic products industry.

(ii) **ALTERNATE MEMBERS.**—In addition to the members described in clause (i), the Secretary may appoint alternate members of the Board.

(B) **APPOINTMENT.**—

(i) **IN GENERAL.**—The Secretary shall appoint members of the Board (including any alternate members) from among producers, first handlers, and importers of organic products that elect to pay the assessment described in section 1086, and others in the marketing chain, as appropriate.

(ii) **MEMBERS OF THE PUBLIC.**—The Secretary may appoint 1 or more members of the general public to the Board.

(C) **NOMINATIONS.**—The Secretary may make appointments from nominations made in accordance with the method described in the order.

(D) **GEOGRAPHICAL AND INDUSTRY REPRESENTATION.**—To ensure fair and equitable representation of organic producers and others covered by the order, the composition of the Board shall reflect—

(i) the geographical distribution of the production of organic products in the United States;

(ii) the quantity or value of organic products covered by the order imported into the United States; and

(iii) the variations in the United States in the scale of organic production operations.

(3) **REAPPORTIONMENT OF BOARD MEMBERSHIP.**—In accordance with rules issued by the Secretary, at least once in each 4-year period, the Board shall—

(A) review the geographical distribution in the United States of the production of organic products in, variations in the scale of organic production operations in, and quantity or value of organic products imported into, the United States; and

(B) as necessary, recommend to the Secretary the reapportionment of the Board membership to reflect changes in that geographical distribution of production, variations in scale of organic production operations, or quantity or value imported.

(4) **NOTICE.**—

(A) **VACANCIES.**—The order shall provide for notice of Board vacancies to the organic products industry.

(B) **MEETINGS.**—

(i) **IN GENERAL.**—The Board shall provide prior notice of meetings of the Board to—

(I) the Secretary, to permit the Secretary, or a designated representative of the Secretary, to attend the meetings; and

(II) the public.

(ii) **ATTENDANCE.**—A meeting of the Board shall be open to the public.

(5) **TERM OF OFFICE.**—

(A) **IN GENERAL.**—The members and any alternate members of the Board shall each serve for a term of 3 years, except that the members and any alternate members initially appointed to the Board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) **LIMITATION ON CONSECUTIVE TERMS.**—A member or alternate member may serve not more than 2 consecutive terms.

(C) **CONTINUATION OF TERM.**—Notwithstanding subparagraph (B), each member or alternate member shall continue to serve until a successor is appointed by the Secretary.

(D) **VACANCIES.**—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of the Board shall be filled in a manner provided for in the order.

(6) **COMPENSATION.**—

(A) **IN GENERAL.**—Members and any alternate members of the Board shall serve without compensation.

(B) **TRAVEL EXPENSES.**—If approved by the Board, members or alternate members shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the Board.

(C) **POWERS AND DUTIES OF BOARD.**—The order shall specify the powers and duties of the Board established under the order, including the power and duty—

(1) to administer, and collect assessments under, the order in accordance with the terms and conditions of the order;

(2) to develop and recommend to the Secretary for approval—

(A) such bylaws as are necessary for the functioning of the Board;

(B) such rules as are necessary to administer the order; and

(C) such activities as are authorized to be carried out under the order;

(3) to meet, organize, and select from among the members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines to be appropriate;

(4) to employ persons, other than the members, as the Board considers necessary to assist the Board in carrying out the duties of the Board (and to determine the compensation and specify the duties of those persons);

(5) subject to subsection (e), to develop and carry out generic promotion, research, and information activities relating to organic products;

(6) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year—

(A) rates of assessment under section 1086; and

(B) an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the Board;

(7) to borrow funds necessary for the startup expenses of the order;

(8) subject to subsection (f), to enter into contracts or agreements to develop and carry out generic promotion, research, and information activities relating to organic products;

(9) to pay the cost of the activities with—

(A) assessments collected under section 1086;

(B) earnings from invested assessments; and

(C) other funds;

(10)(A) to keep records that accurately reflect the actions and transactions of the Board;

(B) to keep and report minutes of each meeting of the Board to the Secretary; and

(C) to furnish the Secretary with any information or records the Secretary requests;

(11) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(12) after providing public notice and an opportunity to comment, to recommend to the Secretary such amendments to the order as the Board considers appropriate.

(d) **PROHIBITED ACTIVITIES.**—The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in—

(1) any action that would be a conflict of interest;

(2) using funds collected by the Board under the order, any action carried out for the purpose of influencing any legislation or governmental action or policy (other than recommending to the Secretary amendments to the order); and

(3) any advertising (including promotion, research, and information activities authorized to be carried out under the order) that may be false or misleading or disparaging to another agricultural commodity.

(e) **ACTIVITIES AND BUDGETS.**—

(1) **ACTIVITIES.**—The order shall require the Board established under the order to submit to the Secretary for approval plans and projects for promotion, research, or information relating to organic products.

(2) **BUDGETS.**—

(A) **SUBMISSION TO SECRETARY.**—

(i) **IN GENERAL.**—The order shall require the Board established under the order to submit to the Secretary for approval a budget of the anticipated annual expenses and disbursements of the Board to be paid to administer the order.

(ii) **SUBMISSION.**—The budget shall be submitted—

(I) before the beginning of a fiscal year; and

(II) as frequently as is necessary after the beginning of the fiscal year.

(B) **REIMBURSEMENT OF SECRETARY.**—The order shall require that the Secretary be reimbursed for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order.

(3) **INCURRING EXPENSES.**—The Board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the Board as authorized by the Secretary.

(4) **PAYMENT OF EXPENSES.**—

(A) **IN GENERAL.**—Expenses incurred under paragraph (3) shall be paid by the Board using—

(i) assessments collected under section 1086;

(ii) earnings obtained from assessments; and

(iii) other income of the Board.

(B) **BORROWED FUNDS.**—Any funds borrowed by the Board shall be expended only for startup costs and capital outlays.

(5) **LIMITATION ON SPENDING.**—For fiscal years beginning 3 or more years after the date of the establishment of the Board, the Board may not expend for administration (except for reimbursements to the Secretary required under paragraph (2)(B)), maintenance, and functioning of the Board in a fiscal year an amount that exceeds 15 percent of the assessment and other income received by the Board for the fiscal year.

(f) **CONTRACTS AND AGREEMENTS.**—

(1) **IN GENERAL.**—The order shall provide that, with the approval of the Secretary, the Board established under the order may—

(A) enter into contracts and agreements to carry out generic promotion, research, and information activities relating to organic products, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(B) pay the cost of approved generic promotion, research, and information activities using—

(i) assessments collected under section 1086;

(ii) earnings obtained from assessments; and

(iii) other income of the Board.

(2) **REQUIREMENTS.**—Each contract or agreement shall provide that any person that enters into the contract or agreement with the Board shall—

(A) develop and submit to the Board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(B) keep accurate records of all of transactions of the person relating to the contract or agreement;

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the Board of activities conducted under the contract or agreement; and

(E) make such other reports as the Board or the Secretary considers relevant.

(g) **RECORDS OF BOARD.**—

(1) **IN GENERAL.**—The order shall require the Board—

(A)(i) to maintain such records as the Secretary may require; and

(ii) to make the records available to the Secretary for inspection and audit;

(B) to collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request;

(C) to account for the receipt and disbursement of all funds in the possession, or under the control, of the Board; and

(D) to make public to the participants in the order the minutes of Board meetings and actions of the Board.

(2) **AUDITS.**—The order shall require the Board to have—

(A) its records audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary.

(h) **PERIODIC EVALUATION.**—

(1) **IN GENERAL.**—In accordance with section 501(c) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(c)), the order shall require the Board to provide for the independent evaluation of all generic promotion, research, and information activities carried out under the order.

(2) **RESULTS.**—The results of an evaluation described in paragraph (1), with any confidential business information expunged, shall be made available for public review by producers, first handlers, importers, and other participants in the order.

(3) **CONFORMING AMENDMENT.**—Section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a)) is amended—

(A) in paragraph (17), by striking “or” at the end;

(B) in paragraph (18), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(19) section 1084(h) of the Organic Products Promotion, Research, and Information Act of 2002.”.

(i) **BOOKS AND RECORDS OF PERSONS COVERED BY ORDER.**—

(1) **IN GENERAL.**—The order shall require that producers, first handlers and other persons in the marketing chain, as appropriate, and importers covered by the order shall—

(A) maintain records sufficient to ensure compliance with the order and regulations;

(B) submit to the Board any information required by the Board to carry out the responsibilities of the Board under the order; and

(C) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the Board or the Department, including

any records necessary to verify information required under subparagraph (B).

(2) **TIME REQUIREMENT.**—Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) **OTHER INFORMATION.**—The Secretary may use, and may authorize the Board to use under this subtitle, information regarding persons subject to the order that is collected by the Department under any other law.

(4) **CONFIDENTIALITY OF INFORMATION.**—

(A) **IN GENERAL.**—Except as otherwise provided in this subtitle, all information obtained under paragraph (1) or as part of a referendum under section 1087 shall be kept confidential by all officers, employees, and agents of the Department and of the Board.

(B) **DISCLOSURE.**—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed in a judicial proceeding or administrative hearing—

(I) brought at the direction or on the request of the Secretary; or

(II) to which the Secretary or any officer of the Department is a party.

(C) **OTHER EXCEPTIONS.**—This paragraph shall not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to the order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of—

(I) the name of any person violating any order; and

(II) a statement of the particular provisions of the order violated by the person.

(D) **PENALTY.**—Any person that willfully violates this subsection shall be subject, on conviction, to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or both.

(5) **WITHHOLDING INFORMATION.**—This subsection shall not authorize the withholding of information from Congress.

#### SEC. 1085. PERMISSIVE TERMS IN ORDER.

(a) **EXEMPTIONS.**—The order may contain—

(1) authority for the Secretary to exempt from the order any de minimis quantity of organic products otherwise covered by the order; and

(2) authority for the Board to require satisfactory safeguards against improper use of the exemption.

(b) **DIFFERENT PAYMENT AND REPORTING SCHEDULES.**—The order may contain authority for the Board to designate different payment and reporting schedules to recognize differences in organic product industry marketing practices and procedures used in different production and importing areas.

(c) **ACTIVITIES.**—

(1) **IN GENERAL.**—The order may contain authority to develop and carry out research, promotion, and information activities designed to expand, improve, or make more efficient the marketing or use of organic products in domestic and foreign markets.

(2) **APPLICABLE AUTHORITY.**—Section 1084(e) shall apply with respect to activities authorized under this subsection.

(d) **RESERVE FUNDS.**—The order may contain authority to reserve funds from assessments collected under section 1086 to permit an effective and continuous coordinated program of research, promotion, and information in years in which the yield from assessments may be reduced, except that the amount of funds reserved may not exceed the greatest aggregate amount of the anticipated disbursements specified in budgets approved under section 1084(e) by the Secretary for any 2 fiscal years.

(e) **GENERIC ACTIVITIES.**—The order may contain authority to provide credits of assessments in accordance with section 1086(d) for those individuals that contribute to other similar generic research, promotion, and information programs at the State, regional, or local level.

(f) **OTHER AUTHORITY.**—The order may contain authority to take any other action that—

(1) is not inconsistent with the purpose of this subtitle, any term or condition specified in section 1084, or any rule issued to carry out this subtitle; and

(2) is necessary to administer the order.

#### SEC. 1086. ASSESSMENTS.

(a) **IN GENERAL.**—A producer, first handler, or importer of an organic product may elect to pay an assessment under the order.

(b) **PAYMENT.**—If a first handler or importer of an organic product elects to pay an assessment, the assessment shall be, as appropriate—

(1) paid by first handlers with respect to the organic product produced and marketed in the United States; and

(2) paid by importers with respect to the organic product imported into the United States, if the imported organic product is covered by the order under section 1085(f).

(c) **COLLECTION.**—Any assessment collected under the order shall be remitted to the Board at the time and in the manner prescribed by the order.

(d) **LIMITATION ON ASSESSMENTS.**—Not more than 1 assessment may be collected on a first handler or importer under subsection (a) with respect to any organic product.

(e) **INVESTMENT OF ASSESSMENTS.**—Pending disbursement of assessments under a budget approved by the Secretary, the Board may invest assessments collected under this section in—

(1) obligations of the United States or any agency of the United States;

(2) general obligations of any State or any political subdivision of a State;

(3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(f) **CREDITS.**—Notwithstanding any other provision of law or any order issued under any commodity promotion law, the Secretary shall permit a producer, first handler, or importer of an organic product that pays an assessment to the Board to receive a credit for the assessment against any assessment that would otherwise be paid by the producer, first handler, or importer under an order issued under another commodity promotion law.

#### SEC. 1087. REFERENDA.

(a) **INITIAL REFERENDUM.**—

(1) **IN GENERAL.**—For the purpose of ascertaining whether the persons to be covered by the order favor the order going into effect, the Secretary shall conduct an initial referendum among persons that, during a representative period determined by the Secretary, engaged in—

(A) the production or handling of organic products; or

(B) the importation of organic products.

(2) **PROCEDURE.**—The results of the referendum shall be determined in accordance with subsection (e).

(b) **SUBSEQUENT REFERENDUM.**—Not later than 3 years after the date on which assessments were first carried out under the order, and at least once every 4 years thereafter, for the purpose of ascertaining whether the persons covered by the order favor the continuation, suspension, or termination of the

order, the Secretary shall conduct a referendum among persons that, during a representative period determined by the Secretary, have engaged in—

(1) the production or handling of organic products; or

(2) the importation of organic products.

(c) **ADDITIONAL REFERENDA.**—For the purpose of ascertaining whether persons covered by the order favor the continuation, suspension, or termination of the order, the Secretary shall conduct additional referenda—

(1) at the request of the Board; or

(2) at the request of 10 percent or more of the number of persons eligible to vote under subsection (b).

(d) **OPTIONAL REFERENDA.**—The Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the order or a provision of the order is favored by persons eligible to vote under subsection (b).

(e) **APPROVAL OF ORDER.**—The order may provide for the approval of the order in a referendum by a majority of persons voting in the referendum.

(f) **MANNER OF CONDUCTING REFERENDA.**—

(1) **IN GENERAL.**—A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

(2) **ADVANCE REGISTRATION.**—If the Secretary determines that an advance registration of eligible voters in a referendum is necessary before the voting period to facilitate the conduct of the referendum, the Secretary may institute the advance registration procedures—

(A) by mail;

(B) in person through the use of national and local offices of the Department; or

(C) by such other means as may be prescribed by the Secretary.

(3) **VOTING.**—Eligible voters may vote in the referendum—

(A) by mail ballot;

(B) in person; or

(C) by such other means as may be prescribed by the Secretary.

(4) **NOTICE.**—

(A) **IN GENERAL.**—Not later than 30 days before the date on which a referendum is conducted under this section with respect to the order, the Secretary shall notify the organic product industry, in such manner as determined to be appropriate by the Secretary, of the period during which voting in the referendum will occur.

(B) **CONTENTS.**—The notice shall explain any registration and voting procedures established under this subsection.

(g) **RESULTS OF REFERENDA.**—The results of referenda conducted under this section shall be made available to the public.

#### **SEC. 1088. PETITION AND REVIEW OF ORDERS.**

(a) **PETITION.**—

(1) **IN GENERAL.**—A person subject to the order may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) **HEARING.**—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations promulgated by the Secretary.

(3) **RULING.**—

(A) **IN GENERAL.**—After the hearing, the Secretary shall make a ruling on the petition.

(B) **FINALITY.**—The ruling shall be final, subject to review in accordance with subsection (b).

(4) **LIMITATION ON PETITION.**—Any petition filed under this subsection challenging the

order, any provision of the order, or any obligation imposed in connection with the order, shall be filed not later than 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) **REVIEW.**—

(1) **COMMENCEMENT OF ACTION.**—The district court of the United States for any district in which a person that is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the final ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the final ruling by the Secretary under subsection (a)(3).

(2) **PROCESS.**—Service of process in a proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) **REMANDS.**—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court determines to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) **EFFECT ON ENFORCEMENT PROCEEDINGS.**—The pendency of a petition filed under subsection (a) or an action commenced under subsection (b) shall not operate as a stay of any action authorized by section 1089 to be taken to enforce this subtitle, including any rule, order, or penalty in effect under this subtitle.

#### **SEC. 1089. ENFORCEMENT.**

(a) **JURISDICTION.**—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, the order issued, or any regulation promulgated, under this subtitle.

(b) **REFERRAL TO ATTORNEY GENERAL.**—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by—

(1) providing a suitable written notice or warning to the person that committed the violation; or

(2) conducting an administrative action under this section.

(c) **CIVIL PENALTIES AND ORDERS.**—

(1) **CIVIL PENALTIES.**—A person that willfully violates the order or regulation promulgated by the Secretary under this subtitle may be assessed by the Secretary a civil penalty of not less than \$1,000 and not more than \$10,000 for each violation.

(2) **SEPARATE OFFENSE.**—Each violation and each day during which there is a failure to comply with the order, or with any regulation promulgated by the Secretary, shall be considered to be a separate offense.

(3) **CEASE-AND-DESIST ORDERS.**—In addition to, or in lieu of, a civil penalty, the Secretary issue an order requiring a person to cease and desist from violating—

(A) the order; or

(B) any regulation promulgated under this subtitle.

(4) **NOTICE AND HEARING.**—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) **FINALITY.**—An order assessing a penalty, or a cease-and-desist order issued under this subsection by the Secretary, shall be final and conclusive unless the person against whom the order is issued files an ap-

peal from the order with the United States court of appeals, as provided in subsection (d).

(d) **REVIEW BY COURT OF APPEALS.**—

(1) **IN GENERAL.**—A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the person receives notice of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) **RECORD.**—The Secretary shall file with the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) **STANDARD OF REVIEW.**—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence on the record.

(e) **FAILURE TO OBEY CEASE-AND-DESIST ORDERS.**—

(1) **IN GENERAL.**—A person that fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not less than \$1,000 and not more than \$10,000 for each offense.

(2) **SEPARATE VIOLATIONS.**—Each day during which the failure continues shall be considered to be a separate violation of the cease-and-desist order.

(f) **FAILURE TO PAY PENALTIES.**—

(1) **IN GENERAL.**—If a person fails to pay a civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business.

(2) **REVIEWABILITY.**—In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) **ADDITIONAL REMEDIES.**—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

#### **SEC. 1090. INVESTIGATIONS AND POWER TO SUBPOENA.**

(a) **INVESTIGATIONS.**—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether any person subject to this subtitle has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this subtitle or any order or regulation issued under this subtitle.

(b) **SUBPOENAS, OATHS, AND AFFIRMATIONS.**—

(1) **IN GENERAL.**—For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records or documents that are relevant to the inquiry.

(2) **SCOPE.**—The attendance of witnesses and the production of records or documents may be required from any place in the United States.

(c) **AID OF COURTS.**—

(1) **IN GENERAL.**—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person

resides or carries on business, in order to require the attendance and testimony of the person or the production of records or documents.

(2) **ACTION BY COURT.**—The court may issue an order requiring the person to appear before the Secretary to produce records or documents or to give testimony regarding the matter under investigation.

(d) **CONTEMPT.**—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) **PROCESS.**—Process in any case under this section may be served—

- (1) in the judicial district in which the person resides or carries on business; or
- (2) wherever the person may be found.

#### **SEC. 1091. SUSPENSION OR TERMINATION.**

(a) **MANDATORY SUSPENSION OR TERMINATION.**—The Secretary shall suspend or terminate an order or a provision of an order if the Secretary determines that—

- (1) an order or a provision of an order obstructs or does not tend to effectuate the purpose of this subtitle; or
- (2) an order or a provision of an order is not favored by persons voting in a referendum conducted under section 1087.

(b) **IMPLEMENTATION OF SUSPENSION OR TERMINATION.**—If, as a result of a referendum conducted under section 1087, the Secretary determines that an order is not approved, the Secretary shall—

- (1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and
- (2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

#### **SEC. 1092. AMENDMENTS TO ORDERS.**

The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that section 1087 shall not apply to an amendment.

#### **SEC. 1093. EFFECT ON OTHER LAWS.**

Except as otherwise expressly provided in this subtitle, this subtitle shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an organic product.

#### **SEC. 1094. REGULATIONS.**

The Secretary may promulgate such regulations as are necessary to carry out this subtitle and the power vested in the Secretary under this subtitle.

#### **SEC. 1095. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) **LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.**—Funds made available to carry out this subtitle may not be expended for the payment of expenses incurred by the Board to administer the order.

#### **Subtitle E—Administration**

**SA 2835.** Mr. CRAIG 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:

At the appropriate place, insert the following:

#### **SEC. 1022. STUDY OF PROPOSAL TO PROHIBIT PACKERS FROM OWNING, FEEDING, OR CONTROLLING LIVESTOCK.**

(a) **IN GENERAL.**—Not later than 270 days after the date of enactment of this Act, the

Secretary of Agriculture shall complete a study to determine the impact that prohibiting packers described in subsection (b) from owning, feeding, or controlling livestock intended for slaughter more than 14 days prior to slaughter would have on—

- (1) livestock producers that market under contract, grid, basis contract, or forward contract;
- (2) rural communities and employees of commercial feedlots associated with a packer;
- (3) private or cooperative joint ventures in packing facilities;
- (4) livestock producers that market feeder livestock to feedlots owned or controlled by packers;
- (5) the market price for livestock (both cash and future prices);
- (6) the ability of livestock producers to obtain credit from commercial sources;
- (7) specialized programs for marketing specific cuts of meat;
- (8) the ability of the United States to compete in international livestock markets; and
- (9) future investment decisions by packers and the potential location of new livestock packing operations.

(b) **PACKERS.**—The packers referred to in subsection (a) are packers that slaughter more than 2 percent of the slaughter of a particular type of livestock slaughter in the United States in any year.

(c) **CONSIDERATION.**—In conducting the study under subsection (a), the Secretary of Agriculture shall—

- (1) consider the legal conditions that have existed in the past regarding the feeding by packers of livestock intended for slaughter; and
- (2) determine the impact of those legal conditions.

(d) **EFFECTIVE OF OTHER PROVISION.**—The section entitled

**PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.** amending section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), shall have no effect.

### **AUTHORITY FOR COMMITTEES TO MEET**

#### **COMMITTEE ON ARMED SERVICES**

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, February 7, 2002, at 9:30 a.m., in open and closed session to receive testimony on the Conduct of Operation Enduring Freedom.

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

#### **COMMITTEE ON ARMED SERVICES**

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, February 7, 2002, at 4:30 p.m. in executive session to meet with members of the United Kingdom's House of Commons Defence Committee.

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

#### **COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. DORGAN. 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

Thursday, February 7, 2002, at 10 a.m., to conduct an oversight hearing on "Analysis of the Failure of Superior Bank, FSB, Hinsdale, Illinois."

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

#### **COMMITTEE ON FOREIGN RELATIONS**

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 7, 2002, at 10:45 p.m., to hold a hearing titled, "What's Next in the War on Terrorism."

#### **Agenda**

Witnesses: Mr. Samuel R. Berger, Former National Security Advisor, Washington, DC; Gen. George A. Joulwan (Ret.), Former NATO Supreme Allied Commander, Arlington, VA; and Mr. William Kristol, Editor, The Weekly Standard, Chairman, Project for the New American Century, McLean, VA.

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

#### **COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, February 7, 2002, at 10:30 a.m., to hold a hearing entitled "S. 1867, a Bill To Establish the National Commission on Terrorist Attacks Upon the United States."

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

#### **COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Protecting America's Pensions: Lessons From the Enron Debacle," during the session of the Senate on Thursday, February 7, 2002, at 10 a.m.

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

#### **COMMITTEE ON INDIAN AFFAIRS**

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, February 7, 2002, at 10 a.m., in room 485, Russell Senate Building to conduct an oversight hearing on legislative proposals relating to the statute of limitations on claims against the United States related to the management of Indian tribal trust fund accounts.

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

#### **COMMITTEE ON THE JUDICIARY**

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, February 7, 2002, at 10 a.m., in SD226.

#### **Agenda**

#### **Nominations**

Michael Melloy, of Iowa, to be U.S. Court of Appeals Judge for the Eighth