

compliance monitoring and, most importantly, a system of compulsory dispute settlement for noncompliance that will apply to all ASEAN agreements";

Whereas upon its accession to ASEAN, Burma agreed to subscribe or accede to all ASEAN declarations, treaties, and agreements;

Whereas 2007 marks the 30th anniversary of the relationship and dialogue between the United States and ASEAN;

Whereas the Senate passed legislation in the 109th Congress that would authorize the establishment of the position of United States Ambassador for ASEAN Affairs, and the President announced in 2007 that an Ambassador would be appointed; and

Whereas ASEAN member nations and the United States share common concerns across a broad range of issues, including accelerated economic growth, social progress, cultural development, and peace and stability in the Southeast Asia region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) joins the foreign ministers of member nations of the Association of Southeast Asian Nations (ASEAN) that have expressed concern over the human rights situation in Burma;

(2) encourages ASEAN to take more substantial steps to ensure a peaceful transition to democracy in Burma;

(3) welcomes steps by ASEAN to strengthen its internal governance through the adoption of a formal ASEAN charter;

(4) urges ASEAN to ensure that all member nations live up to their membership obligations and adhere to ASEAN's core principles, including respect for and commitment to human rights; and

(5) would welcome a decision by ASEAN, consistent with its core documents and its new charter, to review Burma's membership in ASEAN and to consider appropriate disciplinary measures, including suspension, until such time as the Government of Burma has demonstrated an improved respect for and commitment to human rights.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3784. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3756 submitted by Mr. ROBERTS and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table.

SA 3785. Mr. REED (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3639 submitted by Mr. HARKIN (for himself and Ms. MURKOWSKI) and intended to be proposed to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3786. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3695 submitted by Mr. DORGAN (for himself and Mr. GRASSLEY) and intended to be proposed to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3787. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3667 submitted by Mr. HARKIN (for himself, Mr. ENZI, Mr. JOHNSON, Mr. BARRASSO, Mr. DORGAN, Mr. GRASSLEY, Mr. FEINGOLD, and Mr. TESTER) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3788. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3764 submitted by Ms. KLOBUCHAR (for herself, Mr. DURBIN, and Mr. BROWN) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3789. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3765 submitted by Ms. KLOBUCHAR (for herself, Mr. DURBIN, and Mr. BROWN) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3790. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3791. Mrs. FEINSTEIN (for herself, Mr. MARTINEZ, Mr. CASEY, Ms. STABENOW, Mr. BOXER, Mr. NELSON, of Florida, Mr. BINGAMAN, Mr. CARDIN, and Mr. INOUE) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3792. Mr. MARTINEZ (for himself, Mr. NELSON, of Florida, Mr. MENENDEZ, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3793. Mr. MARTINEZ (for himself, Mr. NELSON, of Florida, Mr. MENENDEZ, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3794. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3591 submitted by Mr. BOND and intended to be proposed to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3795. Mr. NELSON, of Florida (for himself, Mr. ENSIGN, Mr. MARTINEZ, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3660 submitted by Mr. BAUCUS (for himself and Mr. CRAPO) and intended to be proposed to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3796. Mr. NELSON, of Florida (for himself, Mr. ENSIGN, Mr. MARTINEZ, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3668 submitted by Mr. BAUCUS and intended to be proposed to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3797. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 3722 submitted by Mr. DURBIN (for himself and Mrs. DOLE) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3798. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3653 submitted by Mr. COBURN and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3799. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3612 submitted by Mr. BOND and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3800. Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) proposed an amendment to the bill H.R. 2761, to extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes.

SA 3801. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 274, to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3784. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3756 submitted by Mr. ROBERTS and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1 of the amendment, strike line 6 and all that follows through page 3, line 25, and insert the following:

“(o) CROP INSURANCE INELIGIBILITY RELATING TO CROP PRODUCTION ON GRASSLAND.—

“(1) DEFINITION OF GRASSLAND.—

“(A) IN GENERAL.—In this subsection, the term ‘grassland’ means rangeland and native grassland that is not listed as cropland on a map maintained by the Secretary at 1 or more local service centers.

“(B) EXCEPTION.—The term ‘grassland’ does not include land described in subparagraph (A) if the producer verifies to the satisfaction of the Secretary that the land was in crop production prior to July 1, 2007.

“(2) INELIGIBILITY.—Grassland on which an agricultural commodity is planted for which a policy or plan of insurance is available under this title shall be permanently ineligible for benefits under this title.”.

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

“(4) PROGRAM INELIGIBILITY RELATING TO CROP PRODUCTION ON GRASSLAND.—

“(A) DEFINITION OF GRASSLAND.—

“(i) IN GENERAL.—In this paragraph, the term ‘grassland’ means rangeland and native grassland that is not listed as cropland on a map maintained by the Secretary at 1 or more local service centers.

“(ii) EXCEPTION.—The term ‘grassland’ does not include land described in clause (i) if the producer verifies to the satisfaction of the Secretary that the land was in crop production prior to July 1, 2007.

“(B) INELIGIBILITY.—Native sod acreage on which an agricultural commodity is planted for which a policy or plan of Federal crop insurance is available shall be permanently ineligible for benefits under this section.”.

(c) INCREASED FUNDING FOR GRASSLAND RESERVE PROGRAM.—In addition to amounts made available under this Act and amendments made by this Act, the Secretary shall use such additional amounts as are made available as a result of the amendments made by this section to carry out the grassland reserve program established under subchapter C of chapter 2 of subtitle D of title

XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.).

SA 3785. Mr. REED (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3639 submitted by Mr. HARKIN (for himself and Ms. MURKOWSKI) and intended to be proposed to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 20 of the amendment, after line 9, insert the following:

(c) EFFECT OF SECTION.—Nothing in this section or an amendment made by this section limits the authority of any State to enforce a requirement that is more stringent than the requirements of this section and the amendment made by this section, if the State requirement is in existence on the date of enactment of this Act.

SA 3786. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3695 submitted by Mr. DORGAN (for himself and Mr. GRASSLEY) and intended to be proposed to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 4 of the amendment, strike lines 8 through 18, and insert the following: shall not exceed \$20,000 (as adjusted under subsection (c)(2)) in the case of corn).";

(3) by striking subsection (c) and inserting the following:

“(C) LIMITATION ON COUNTER-CYCLICAL PAYMENTS.—

“(1) IN GENERAL.—The total amount of counter-cyclical payments that an individual or entity may receive, directly or indirectly, during any crop year under part I or III of subtitle A or C of the Food and Energy Security Act of 2007 for 1 or more covered commodities and peanuts, or average crop revenue payments determined under section 1401(b)(3) of that Act, shall not exceed \$30,000 (as adjusted under paragraph (2) in the case of corn).

“(2) SPECIAL RULE FOR CORN.—

“(A) IN GENERAL.—For each crop year, the Secretary shall calculate a per bushel ethanol benefit for corn resulting from Federal incentives for ethanol.

“(B) REDUCTION IN PAYMENTS.—

“(i) REDUCTION OF DIRECT PAYMENT.—The maximum amount of direct payments that an individual legal entity is entitled to receive for a crop year for corn under subsection (b), or average crop revenue payments determined under section 1401(b)(2) of the Food and Energy Security Act of 2007, shall be reduced by an amount equal to the product obtained by multiplying—

“(I) the amount of the ethanol benefit calculated under subparagraph (A); by

“(II) the actual quantity of corn produced by the individual or entity during the preceding crop year.

“(ii) REDUCTION OF COUNTER-CYCLICAL PAYMENTS.—If the amount calculated under subsections (I) and (II) of clause (i) for an individual or entity exceeds the amount of direct payments the individual or entity would otherwise be entitled to receive under subsection (b) for corn, the maximum amount of counter-cyclical payments for corn that the individual or entity is entitled to receive under paragraph (1), or average crop revenue payments determined under section 1401(b)(3)

of the Food and Energy Security Act of 2007, shall be reduced by the excess amount.”;

SA 3787. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3667 submitted by Mr. HARKIN (for himself, Mr. ENZI, Mr. JOHNSON, Mr. BARRASSO, Mr. DORGAN, Mr. GRASSLEY, Mr. FEINGOLD, and Mr. TESTER) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 10207. COMPETITIVE INJURY STUDY.

Subtitle A of title II of the Packers and Stockyards Act, 1921 (7 U.S.C. 191 et seq.) is amended by adding at the end the following:

“SEC. 208. COMPETITIVE INJURY STUDY.

“Not later than January 1, 2009, the Secretary, in consultation with the Attorney General of the United States, shall conduct, and submit to Congress a report describing the results of, a review of—

“(1) the means by which the competitive injury standard has affected parties to civil actions filed pursuant to this Act;

“(2) whether the standard of review applicable to anticompetitive cases regarding the agricultural industry is consistent with the standard of review applicable to anticompetitive cases regarding other industries;

“(3) the potential impact on agricultural markets of eliminating the competitive injury requirement from laws (including regulations) applicable to agricultural markets; and

“(4) the impact on agricultural and non-agricultural industries, trade, and prices paid by consumers of eliminating the competitive injury standard.”.

SA 3788. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3764 submitted by Ms. KLOBUCHAR (for herself, Mr. DURBIN, and Mr. BROWN) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1 of the amendment, strike line 9 and all that follows through page 4, line 5, and insert the following:

“(1) COMMODITY AND CONSERVATION PROGRAMS.—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2) during a crop year if the average adjusted gross income of the individual or entity, or the average adjusted gross income of the individual and spouse of the individual, exceeds—

“(A) \$250,000, if less than 66.66 percent of the average adjusted gross income of the individual or entity, or the average adjusted gross income of the individual and spouse of the individual, is derived from farming, ranching, or forestry operations, as determined by the Secretary; or

“(B) \$750,000.

“(2) COVERED BENEFITS.—Paragraph (1) applies with respect to the following:

“(A) A direct payment or counter-cyclical payment under part I or III of subtitle A of title I of the Food and Energy Security Act of 2007.

“(B) A marketing loan gain or loan deficiency payment under part II or III of subtitle A of title I of the Food and Energy Security Act of 2007.

“(C) An average crop revenue payment under subtitle B of title I of the Food and Energy Security Act of 2007.

“(D) Title XII of this Act.

“(E) Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 223).

“(F) Title II of the Food and Energy Security Act of 2007.

SA 3789. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3765 submitted by Ms. KLOBUCHAR (for herself, Mr. DURBIN, and Mr. BROWN) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 2 of the amendment, strike line 1 and all that follows through page 4, line 5, and insert the following:

“(1) COMMODITY AND CONSERVATION PROGRAMS.—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2) during a crop year if the average adjusted gross income of the individual or entity, or the average adjusted gross income of the individual and spouse of the individual, exceeds—

“(A) \$250,000, if less than 66.66 percent of the average adjusted gross income of the individual or entity, or the average adjusted gross income of the individual and spouse of the individual, is derived from farming, ranching, or forestry operations, as determined by the Secretary; or

“(B) \$750,000.

“(2) COVERED BENEFITS.—Paragraph (1) applies with respect to the following:

“(A) A direct payment or counter-cyclical payment under part I or III of subtitle A of title I of the Food and Energy Security Act of 2007.

“(B) A marketing loan gain or loan deficiency payment under part II or III of subtitle A of title I of the Food and Energy Security Act of 2007.

“(C) An average crop revenue payment under subtitle B of title I of the Food and Energy Security Act of 2007.

“(D) Title XII of this Act.

“(E) Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 223).

“(F) Title II of the Food and Energy Security Act of 2007.

SA 3790. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agriculture programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 563, between lines 15 and 16, insert the following:

SEC. 3205. QUALITY REQUIREMENTS FOR CLEMENTINES.

Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the matter preceding the first proviso in the first sentence by inserting "clementines," after "nectarines,".

SA 3791. Mrs. FEINSTEIN (for herself, Mr. MARTINEZ, Mr. CASEY, Ms. STABENOW, Mrs. BOXER, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. CARDIN, and Mr. INOUE) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part II of subtitle A of title XI, insert the following:

SEC. 1103 . RESTORATION OF IMPORT AND ENTRY AGRICULTURAL INSPECTION FUNCTIONS TO DEPARTMENT OF AGRICULTURE.

(a) REPEAL OF TRANSFER OF FUNCTIONS.—Sections 310 and 421 of the Homeland Security Act of 2002 (6 U.S.C. 190, 231) are repealed.

(b) CONFORMING AMENDMENT TO FUNCTION OF SECRETARY OF HOMELAND SECURITY.—Section 402 of the Homeland Security Act of 2002 (6 U.S.C. 202) is amended—

- (1) by striking paragraph (7); and
- (2) by redesignating paragraph (8) as paragraph (7).

(c) TRANSFER AGREEMENT.—

(1) IN GENERAL.—Not later than the effective date described in subsection (g), the Secretary and the Secretary of Homeland Security shall enter into an agreement to effectuate the return of functions required by the amendments made by this section.

(2) USE OF CERTAIN EMPLOYEES.—The agreement may include authority for the Secretary to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(d) RESTORATION OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the effective date described in subsection (g), all full-time equivalent positions of the Department of Agriculture transferred to the Department of Homeland Security under section 310 or 421(g) of the Homeland Security Act of 2002 (6 U.S.C. 190, 231(g)) (as in effect on the day before the effective date described in subsection (g)) shall be restored to the Department of Agriculture.

(e) AUTHORITY OF APHIS.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish within the Animal and Plant Health Inspection Service a program, to be known as the "International Agricultural Inspection Program", under which the Administrator of the Animal and Plant Health Inspection Service (referred to in this subsection as the "Administrator") shall carry out import and entry agricultural inspections.

(2) INFORMATION GATHERING AND INSPECTIONS.—In carrying out the program under paragraph (1), the Administrator shall have full access to—

(A) each secure area of any terminal for screening passengers or cargo under the control of the Department of Homeland Security on the day before the date of enactment of this Act for purposes of carrying out inspections and gathering information; and

(B) each database (including any database relating to cargo manifests or employee and business records) under the control of the Department of Homeland Security on the day before the date of enactment of this Act for purposes of gathering information.

(3) INSPECTION ALERTS.—The Administrator may issue inspection alerts, including by indicating cargo to be held for immediate inspection.

(4) INSPECTION USER FEES.—The Administrator may, as applicable—

(A) continue to collect any agricultural quarantine inspection user fee; and

(B) administer any reserve account for the fees.

(5) CAREER TRACK PROGRAM.—

(A) IN GENERAL.—The Administrator shall establish a program, to be known as the "import and entry agriculture inspector career track program", to support the development of long-term career professionals with expertise in import and entry agriculture inspection.

(B) STRATEGIC PLAN AND TRAINING.—In carrying out the program under this paragraph, the Administrator, in coordination with the Secretary, shall—

(i) develop a strategic plan to incorporate import and entry agricultural inspectors into the infrastructure protecting food, fiber, forests, bioenergy, and the environment of the United States from animal and plant pests, diseases, and noxious weeds; and

(ii) as part of the plan under clause (i), provide training for import and entry agricultural inspectors participating in the program not less frequently than once each year to improve inspection skills

(f) DUTIES OF SECRETARY.—

(1) IN GENERAL.—The Secretary shall—

(A) develop standard operating procedures for inspection, monitoring, and auditing relating to import and entry agricultural inspections, in accordance with recommendations from the Comptroller General of the United States and reports of interagency advisory groups, as applicable; and

(B) ensure that the Animal and Plant Health Inspection Service has a national electronic system with real-time tracking capability for monitoring, tracking, and reporting inspection activities of the Service.

(2) FEDERAL AND STATE COOPERATION.—

(A) COMMUNICATION SYSTEM.—The Secretary shall develop and maintain an integrated, real-time communication system with respect to import and entry agricultural inspections to alert State departments of agriculture of significant inspection findings of the Animal and Plant Health Inspection Service.

(B) ADVISORY COMMITTEE.—

(i) ESTABLISHMENT.—The Secretary shall establish a committee, to be known as the "International Trade Inspection Advisory Committee" (referred to in this subparagraph as the "committee"), to advise the Secretary on policies and other issues relating to import and entry agricultural inspection.

(ii) MODEL.—In establishing the committee, the Secretary shall use as a model the Agricultural Trade Advisory Committee.

(iii) MEMBERSHIP.—The committee shall be composed of members representing—

- (I) State departments of agriculture;
- (II) directors of ports and airports in the United States;
- (III) the transportation industry;
- (IV) the public; and
- (V) such other entities as the Secretary determines to be appropriate.

(3) REPORT.—Not less frequently than once each year, the Secretary shall submit to Congress a report containing an assessment of—

(A) the resource needs for import and entry agricultural inspection, including the number of inspectors required;

(B) the adequacy of—

(i) inspection and monitoring procedures and facilities in the United States; and

(ii) the strategic plan developed under subsection (e)(5)(B)(i); and

(C) new and potential technologies and practices, including recommendations regarding the technologies and practices, to improve import and entry agricultural inspection.

(4) FUNDING.—The Secretary shall pay the costs of each import and entry agricultural inspector employed by the Animal and Plant Health Inspection Service from amounts made available to the Department of Agriculture for the applicable fiscal year.

(g) EFFECTIVE DATE.—The amendments made by this section take effect on the date that is 180 days after the date of enactment of this Act.

SA 3792. Mr. MARTINEZ (for himself, Mr. NELSON of Florida, Mr. MENENDEZ, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3 . SENSE OF THE SENATE.

The Senate—

(1) finds that—

(A) since 1982, the Department of State has consistently added Cuba to the list of State sponsors of terrorism;

(B) the Cuban regime continues to repress political dissent in Cuba;

(C) the Cuban regime continues to arbitrarily imprison and violate the civil rights of the citizens of Cuba; and

(D) the Cuban regime continues the practice of "tourism apartheid" by restricting the access of the citizens of Cuba to hospitals, restaurants, and food stores that are reserved only for foreigners;

(2) condemns the anti-democratic and repressive actions by the Cuban Regime;

(3) supports the people of Cuba in the quest to achieve a truly democratic form of government; and

(4) calls on the international community to condemn the antidemocratic actions of the repressive Cuban regime.

SA 3793. Mr. MARTINEZ (for himself, Mr. NELSON of Florida, Mr. MENENDEZ, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. 3 . APPLICABILITY.

Nothing in the preceding sections relating to Cuba (including any amendment to the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201 et seq.)) applies to, or may be used for purposes of any transaction with, any foreign country that is identified by the Secretary of State as a "State Sponsor of Terror".

SA 3794. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3591 submitted by Mr.

BOND and intended to be proposed to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

Subtitle C—Agricultural Regulatory Flexibility

SEC. 11081. DEFINITIONS.

In this subtitle:

(1) **AGENCY.**—The term “agency” has the meaning given the term in section 551(1) of title 5, United States Code.

(2) **AGRICULTURAL ENTITY.**—The term “agricultural entity” means any person or entity that has income derived from—

(A) farming, ranching, or forestry operations;

(B) the production of crops, livestock, or unfinished raw forestry products;

(C) the sale, including the sale of easements and development rights, of farm, ranch, forestry, water, or hunting rights;

(D) the sale of equipment to conduct farm, ranch, or forestry operations;

(E) the rental or lease of land used for farming, ranching, or forestry operations, including water or hunting rights;

(F) the provision of production inputs and services to farmers, ranchers, and foresters;

(G) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities;

(H) the sale of land that has been used for agriculture; or

(I) payments or other income attributable to benefits received under any program authorized under title I or II.

(3) **COLLECTION OF INFORMATION.**—

(A) **IN GENERAL.**—The term “collection of information” means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency, regardless of form or format, calling for—

(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States that are to be used for general statistical purposes.

(B) **EXCLUSION.**—The term “collection of information” does not include collection of information described in section 3518(c)(1) of title 44, United States Code.

(4) **RECORDKEEPING REQUIREMENT.**—The term “recordkeeping requirement” means a requirement imposed by an agency on persons to maintain specified records.

(5) **RULE.**—

(A) **IN GENERAL.**—The term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of title 5, United States Code, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment.

(B) **EXCLUSION.**—The term “rule” does not include a rule of particular applicability relating to—

(i) rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor; or

(ii) valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances.

SEC. 11082. AGRICULTURAL REGULATORY FLEXIBILITY AGENDA.

(a) **IN GENERAL.**—During the months of October and April of each year, each agency shall publish in the Federal Register an agricultural regulatory flexibility agenda that contains—

(1) a brief description of the subject area of any rule that the agency expects to propose or promulgate that is likely to have a significant economic impact on a substantial number of agricultural entities;

(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

(b) **CHIEF COUNSELS.**—Each agricultural regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Department of Agriculture for comment, if any.

(c) **NOTICE.**—Each agency shall—

(1) attempt to provide notice of each agricultural regulatory flexibility agenda to agricultural entities (or representatives thereof) through direct notification or publication of the agenda in publications likely to be obtained by the agricultural entities; and

(2) invite comments on each subject area on the agenda.

(d) **EFFECT OF SECTION.**—Nothing in this section—

(1) precludes an agency from considering or acting on any matter not included in an agricultural regulatory flexibility agenda; or

(2) requires an agency to consider or act on any matter listed in the agenda.

SEC. 11083. INITIAL AGRICULTURAL REGULATORY FLEXIBILITY ANALYSIS.

(a) **ANALYSIS.**—

(1) **REQUIREMENT.**—In any case in which an agency is required by section 553 of title 5, United States Code, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial agricultural regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on agricultural entities.

(2) **PUBLICATION.**—The initial agricultural regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule.

(3) **CHIEF COUNSELS.**—The agency shall transmit a copy of the initial agricultural regulatory flexibility analysis to the Chief Counsel for Advocacy of the Department of Agriculture.

(4) **APPLICABILITY.**—In the case of an interpretative rule involving the internal revenue laws of the United States, the requirements of this section apply to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations only to the extent that the interpretative rule imposes on agricultural entities a collection of information requirement.

(b) **CONTENTS.**—Each initial agricultural regulatory flexibility analysis required under this section shall contain—

(1) a description of the reasons why action by the agency is being considered;

(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) a description of and, if feasible, an estimate of the number of agricultural entities to which the proposed rule will apply;

(4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of agricultural entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

(5) an identification, to the maximum extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

(c) **ALTERNATIVES.**—

(1) **IN GENERAL.**—Each initial agricultural regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule that—

(A) accomplish the stated objectives of applicable laws (including regulations); and

(B) minimize any significant economic impact of the proposed rule on agricultural entities.

(2) **DESCRIPTION.**—In accordance with the stated objectives of applicable laws (including regulations), the analysis shall include a description of significant alternatives, such as—

(A) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to agricultural entities;

(B) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for the agricultural entities;

(C) the use of performance rather than design standards; and

(D) an exemption from coverage of the rule, or any part thereof, for such agricultural entities.

SEC. 11084. FINAL AGRICULTURAL REGULATORY FLEXIBILITY ANALYSIS.

(a) **FINAL ANALYSIS.**—

(1) **IN GENERAL.**—In any case in which an agency promulgates a final rule under section 553 of title 5, United States Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 11083(a), the agency shall prepare a final agricultural regulatory flexibility analysis.

(2) **CONTENTS.**—Each final agricultural regulatory flexibility analysis shall contain—

(A) a succinct statement of the need for, and objectives of, the rule;

(B) a summary of the significant issues raised by the public comments in response to the initial agricultural regulatory flexibility analysis, a summary of the assessment of the agency of those issues, and a statement of any changes made in the proposed rule as a result of the comments;

(C) a description of and an estimate of the number of agricultural entities to which the rule will apply or an explanation of why no such estimate is available;

(D) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of agricultural entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

(E) a description of measures the agency has carried out to minimize the significant economic impact on agricultural entities consistent with the stated objectives of applicable statutes, including a statement of—

(i) the factual, policy, and legal reasons for selecting the alternative adopted in the final rule; and

(ii) why each of the other significant alternatives to the rule considered by the agency that affect the impact on agricultural entities was rejected.

(b) **PUBLICATION.**—The agency shall—

(1) make copies of the final agricultural regulatory flexibility analysis available to members of the public; and

(2) publish in the Federal Register the analysis or a summary thereof.

SEC. 11085. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSIS.

(a) IN GENERAL.—Any Federal agency may perform the analyses required by sections 11082, 11083, and 11084 in conjunction with, or as a part of, any other agenda or analysis required by any other law if the other analysis satisfies the requirements of those sections.

(b) CERTIFICATION BY AGENCY HEAD.—

(1) IN GENERAL.—Sections 11083 and 11084 shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of agricultural entities.

(2) PUBLICATION.—If the head of the agency makes a certification under paragraph (1), the agency head shall publish the certification (together with a statement providing the factual basis for the certification) in the Federal Register—

(A) at the time of publication of general notice of proposed rulemaking for the rule; or

(B) at the time of publication of the final rule.

(3) CHIEF COUNSEL.—The agency shall provide each certification and statement described in paragraph (2) to the Chief Counsel for Advocacy of the Department of Agriculture.

(c) CLOSELY RELATED RULES.—To avoid duplicative action, an agency may consider a series of closely related rules as 1 rule for the purposes of sections 11082, 11083, 11084 and 11090.

SEC. 11086. EFFECT ON OTHER LAW.

The requirements of sections 11083 and 11084 do not alter in any manner standards otherwise applicable by law to agency action.

SEC. 11087. PREPARATION OF ANALYSES.

In complying with sections 11083 and 11084, an agency may provide—

(1) a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule; or

(2) more general descriptive statements, if quantification is not practicable or reliable.

SEC. 11088. PROCEDURE FOR WAIVER OR DELAY OF COMPLETION.

(a) EMERGENCY SITUATIONS.—An agency head may waive or delay the completion of some or all of the requirements of section 11083 by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the requirements impracticable.

(b) LIMITATION.—

(1) IN GENERAL.—Except as provided in section 11085(b), an agency head may not waive the requirements of section 11084.

(2) DELAYS.—An agency head may delay the completion of the requirements of section 11084 for a period of not more than 180 days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than that date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with section 11084 impracticable.

(3) FAILURE TO PREPARE ANALYSIS.—If the agency has not prepared a final agricultural regulatory analysis pursuant to section 11084 by not later than 180 days after the date of publication of the final rule, the rule—

(A) shall lapse and have no effect; and

(B) shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency.

SEC. 11089. PROCEDURES FOR GATHERING COMMENTS.

(a) DEFINITION OF COVERED AGENCY.—In this section, the term “covered agency” means the Environmental Protection Agency and the Department of the Interior and its agencies.

(b) PARTICIPATION.—In any case in which a rule is promulgated that will have a significant economic impact on a substantial number of agricultural entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that agricultural entities have been given an opportunity to participate in the rulemaking for the rule through the rational use of techniques, such as—

(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of agricultural entities;

(2) the publication of general notice of proposed rulemaking in publications likely to be obtained by agricultural entities;

(3) the direct notification of interested agricultural entities;

(4) the conduct of open conferences or public hearings concerning the rule for agricultural entities including soliciting and receiving comments over computer networks; and

(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by agricultural entities.

(c) INITIAL REQUIREMENTS.—Before the date of publication of an initial agricultural regulatory flexibility analysis required under this subtitle—

(1) a covered agency shall—

(A) notify the Chief Counsel for Advocacy of the Department of Agriculture; and

(B) provide the Chief Counsel with information on the potential impacts of the proposed rule on agricultural entities that might be affected;

(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected agricultural entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

(3) the agency shall convene a review panel for the rule consisting entirely of—

(A) full-time Federal employees of the office within the agency responsible for carrying out the proposed rule;

(B) the Office of Information and Regulatory Affairs within the Office of Management and Budget; and

(C) the Chief Counsel;

(4) the panel shall—

(A) review any material the agency has prepared in connection with this subtitle, including any draft proposed rule; and

(B) collect advice and recommendations of each individual agricultural entity representative identified by the agency, after consultation with the Chief Counsel, on issues relating to paragraphs (3) and (4) of subsection (b), and subsection (c), of section 11083;

(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the agricultural entity representatives and its findings as to issues relating to paragraphs (3) and (4) of subsection (b), and subsection (c), of section 11083, subject to the requirement that the report shall be made public as part of the rulemaking record; and

(6) as appropriate, the agency shall modify the proposed rule, the initial agricultural flexibility analysis or the decision on whether an initial flexibility analysis is required.

(d) APPLICABILITY.—An agency may, at the discretion of the agency head, apply subsection (c) to rules that the agency intends to certify under section 11085(b), but the agency believes may have a greater than de minimis impact on a substantial number of agricultural entities.

(e) WAIVERS.—

(1) IN GENERAL.—The Chief Counsel for Advocacy, in consultation with the individuals identified under subsection (c)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of paragraphs (3) through (5) of subsection (c) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of agricultural entities in the rulemaking process.

(2) FACTORS FOR CONSIDERATION.—For purposes of paragraph (1), the factors to be considered in making a finding described in that paragraph are the following:

(A) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected agricultural entities with respect to the potential impacts of the rule and took those concerns into consideration.

(B) Special circumstances requiring prompt issuance of the rule.

(C) Whether the requirements of subsection (c) would provide the individuals identified in subsection (c)(2) with a competitive advantage relative to other agricultural entities.

SEC. 11090. PERIODIC REVIEW OF RULES.

(a) PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency that have or will have a significant economic impact on a substantial number of agricultural entities.

(2) AMENDMENTS.—The plan may be amended by the agency at any time by publishing the revision in the Federal Register.

(3) REVIEWS.—The purpose of a review under the plan shall be to determine whether the rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable laws (including regulations), to minimize any significant economic impact of the rules on a substantial number of agricultural entities.

(4) REQUIREMENTS.—The plan shall provide for—

(A) the review of all such agency rules in existence on the date of enactment of this Act by not later than 10 years after that date; and

(B) the review of any rules adopted after that date of enactment by not later than 10 years after the publication of those rules as final rules.

(5) EXTENSIONS.—If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the agency head—

(A) shall provide a certification of the determination in a statement published in the Federal Register; and

(B) may extend the completion date by 1 year at a time for a total of not more than 5 years.

(b) FACTORS FOR CONSIDERATION.—In reviewing rules to minimize any significant economic impact of the rule on a substantial number of agricultural entities in a manner

consistent with the stated objectives of applicable laws and regulations, the agency shall take into consideration—

- (1) the continued need for the rule;
- (2) the nature of complaints or comments received concerning the rule from the public;
- (3) the complexity of the rule;
- (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and
- (5) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

(c) **LISTS.**—

(1) **IN GENERAL.**—For each calendar year, each agency shall publish in the Federal Register a list of the rules that have a significant economic impact on a substantial number of agricultural entities that are to be reviewed pursuant to this section during the following calendar year.

(2) **INCLUSIONS.**—The list shall include—

- (A) a brief description of each rule; and
 - (B) the need for and legal basis of the rule.
- (3) **PUBLIC COMMENT.**—The list shall invite public comment on each rule included on the list.

SEC. 11091. JUDICIAL REVIEW.

(a) **REVIEW.**—

(1) **IN GENERAL.**—For any rule subject to this subtitle, a agricultural entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 11081, 11084, 11085(b), 11088(b), and 11090 in accordance with chapter 7 of title 5, United States Code.

(2) **CERTAIN SECTIONS.**—Agency compliance with sections 11087 and 11089(a) shall be judicially reviewable in connection with judicial review of section 11084.

(3) **JURISDICTION.**—

(A) **IN GENERAL.**—Each court having jurisdiction to review a rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 11081, 11084, 11085(b), 11088(b), and 11090 in accordance with chapter 7 of title 5, United States Code.

(B) **CERTAIN SECTIONS.**—Agency compliance with sections 11087 and 11089(a) shall be judicially reviewable in connection with judicial review of section 11084.

(4) **TIME PERIOD.**—

(A) **IN GENERAL.**—An agricultural entity may seek review under this subsection during the 1-year period beginning on the date of final agency action, except that if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section.

(B) **DELAYS.**—In any case in which an agency delays the issuance of a final agricultural flexibility analysis pursuant to section 11088(b), an action for judicial review under this section shall be filed not later than—

- (i) 1 year after the date on which the analysis is made available to the public, or
- (ii) if a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in the provision of law that is after the date the analysis is made available to the public.

(5) **RELIEF.**—In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this subtitle and chapter 7 of title 5 United States Code, including—

- (A) remanding the rule to the agency; and
- (B) deferring the enforcement of the rule against agricultural entities unless the court

finds that continued enforcement of the rule is in the public interest.

(6) **EFFECT OF SUBSECTION.**—Nothing in this subsection limits the authority of any court—

(A) to stay the effective date of any rule or provision thereof under any other provision of law; or

(B) to grant any other relief in addition to the requirements of this section.

(b) **ANALYSES.**—In an action for the judicial review of a rule, the agricultural flexibility analysis for the rule, including an analysis prepared or corrected pursuant to subsection (a)(4), shall constitute part of the entire record of agency action in connection with the review.

(c) **REQUIREMENT.**—Compliance or non-compliance by an agency with the provisions of this subtitle shall be subject to judicial review only in accordance with this section.

(d) **EFFECT OF SECTION.**—Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of the statement or analysis is otherwise permitted by law.

SEC. 11092. REPORTS AND INTERVENTION RIGHTS.

(a) **MONITORING.**—The Chief Counsel for Advocacy of the Department of Agriculture shall—

(1) monitor agency compliance with this subtitle; and

(2) submit reports at least annually on that compliance to—

- (A) the President;
- (B) the Committee on Agriculture of the House of Representatives; and
- (C) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) **AMICUS CURIAE.**—

(1) **IN GENERAL.**—The Chief Counsel for Advocacy of the Department of Agriculture may appear as amicus curiae in any action brought in a court of the United States to review a rule.

(2) In any action described in paragraph (1), the Chief Counsel may present the views of the Chief Counsel with respect to—

- (A) compliance with this subtitle;
- (B) the adequacy of the rulemaking record with respect to agricultural entities; and
- (C) the effect of the rule on agricultural entities.

(3) **ACTION BY COURTS.**—A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Department of Agriculture to appear in any such action for the purposes described in this subsection.

SEC. 11093. ESTABLISHMENT OF OFFICE OF ADVOCACY WITHIN THE DEPARTMENT OF AGRICULTURE; CHIEF COUNSEL FOR AGRICULTURAL ADVOCACY.

(a) **ESTABLISHMENT.**—There is established within the Department of Agriculture an Office of Advocacy.

(b) **MANAGEMENT.**—The management of the Office shall be vested in a Chief Counsel for Advocacy, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

SEC. 11094. PRIMARY FUNCTIONS OF OFFICE OF ADVOCACY.

The primary functions of the Office of Advocacy shall be—

- (1) to measure the direct costs and other effects of government regulation on agricultural entities; and make legislative and non-legislative proposals for eliminating excessive or unnecessary regulations of agricultural entities;
- (2) to study the ability of financial markets and institutions to meet agricultural entity credit needs and determine the impact of government demands for credit on agricultural entities;

(3)(A) to recommend specific measures for creating an environment in which all agricultural entities will have the opportunity to compete effectively and expand to full potential; and

(B) to ascertain the common reasons, if any, for agricultural entity successes and failures;

(4)(A) to evaluate the efforts of each Federal department and agency, and of private industry, to assist agricultural entities owned and controlled by veterans, and agricultural entities concerns owned and controlled by serviced-disabled veterans;

(B) to provide statistical information on the use of those programs by those agricultural entities; and

(C) to make appropriate recommendations to the Secretary and Congress to promote the establishment and growth of those agricultural entities.

SEC. 11095. ADDITIONAL DUTIES OF OFFICE OF ADVOCACY.

The Office of Advocacy shall also perform the following duties on a continuing basis:

(1) Serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the President and any other Federal agency that affects agricultural entities.

(2) Counsel agricultural entities on methods to resolve questions and problems concerning the relationship of the agricultural entity to the Federal Government.

(3) Develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of agricultural entities and communicate the proposals to the appropriate Federal agencies.

(4) Represent the views and interests of agricultural entities before other Federal agencies the policies and activities of which may affect agricultural entities.

(5) Enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about—

(A) the programs and services provided by the Federal Government that are of benefit to agricultural entities; and

(B) the means by which agricultural entities can participate in or make use of those programs and services.

SA 3795. Mr. NELSON of Florida (for himself, Mr. ENSIGN, Mr. MARTINEZ, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3660 submitted by Mr. BAUCUS (for himself and Mr. CRAPO) and intended to be proposed to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. 3. EFFECTIVE DATE.

(a) **IN GENERAL.**—The preceding sections relating to Cuba (including any amendment to the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201 et seq.)) shall not take effect until the date on which the President submits to Congress a certification described in subsection (b).

(b) **CONDITIONS FOR CERTIFICATION.**—A certification referred to in subsection (a) is a certification submitted by the President that—

- (1) Cuba has—
- (A) ended discrimination in the Cuban tourist industry, known as “tourism apartheid”; and

(B) provided to the citizens of Cuba access to tourist hotels, beaches, and other tourist locations;

(2) Cuba is providing equal employment opportunities for Afro-Cubans in the Cuban tourist industry, including in hotels;

(3) Cuban employers are making direct payments to Cuban hotel workers; and

(4) any foodstuffs imported to Cuba from the United States are made available for purchase in stores accessible to all Cubans.

SA 3796. Mr. NELSON of Florida (for himself, Mr. ENSIGN, Mr. MARTINEZ, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3668 submitted by Mr. BAUCUS and intended to be proposed to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. 3. EFFECTIVE DATE.

(a) **IN GENERAL.**—The preceding sections relating to Cuba (including any amendment to the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201 et seq.)) shall not take effect until the date on which the President submits to Congress a certification described in subsection (b).

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(1) Cuba has—

(A) ended discrimination in the Cuban tourist industry, known as “tourism apartheid”; and

(B) provided to the citizens of Cuba access to tourist hotels, beaches, and other tourist locations;

(2) Cuba is providing equal employment opportunities for Afro-Cubans in the Cuban tourist industry, including in hotels;

(3) Cuban employers are making direct payments to Cuban hotel workers; and

(4) any foodstuffs imported to Cuba from the United States are made available for purchase in stores accessible to all Cubans.

SA 3797. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 3722 submitted by Mr. DURBIN (for himself and Mrs. DOLE) and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1 of the amendment, strike line 6 and all that follows through the end of the amendment and insert the following:

“(1) **IN GENERAL.**—Of the funds of the Commodity Credit Corporation, the President shall use to carry out this section \$100,000,000 for each of fiscal years 2009 through 2012.”; and

(B) in paragraph (2), by striking “such sums” and all that follows through “2007” and inserting “\$300,000,000 for each of fiscal years 2008 through 2012”.

SEC. 3109. OFFSET.

Section 901(b)(4)(A) of the Trade Act of 1974 (as added by section 12101(a)) is amended by striking clause (ii) and inserting the following:

“(ii) 35 percent of the amount of any direct payments made to the producer under section 1103 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913) or section 1103 of the Food and Energy Security Act of 2007 or of any fixed direct payments made at the election of the producer in lieu of that section or a subsequent section.”.

SA 3798. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3653 submitted by Mr. COBURN and intended to be proposed to the amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 19. ELIGIBILITY FOR DEPARTMENT PROGRAMS.

Section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)) is amended by striking subparagraph (A) and inserting the following:

“(A) **IN GENERAL.**—

“(1) **REQUIREMENT TO PURCHASE CROP INSURANCE.**—Effective for the spring-planted 2008 and subsequent crops (and fall-planted 2008 crops at the option of the Secretary) of each agricultural commodity or commercial crop (other than dairy or livestock), to be eligible for any benefit described in clause (ii), a person shall—

“(I) in the case of an agricultural commodity for which insurance is available under this title, obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

“(II) in the case of an eligible crop for which payments are available under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), provides a level of coverage that is comparable to the coverage described in subclause (I), as determined by the Secretary.

“(ii) **COVERED BENEFITS.**—Benefits referred to in clause (i) are—

“(I) any type of price support, payment, loan, or other benefit, as determined by the Secretary, under—

“(aa) title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.);

“(bb) title I of the Food and Energy Security Act of 2007;

“(cc) the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.);

“(dd) any law providing agricultural disaster assistance; or

“(ee) any other similar Act administered by the Secretary, as determined by the Secretary; or

“(II) any benefit described in section 371(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f(b)).

“(iii) **WAIVER.**—To be eligible for any benefit described in clause (ii), a person that elects not to obtain coverage described in subclause (I) or (II) of clause (i) for an agricultural commodity or commercial crop shall submit to the Secretary a written waiver to waive any eligibility for emergency crop loss assistance for that agricultural commodity or commercial crop.”.

SA 3799. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3612 submitted by Mr. BOND and intended to be proposed to the amendment SA 3500 proposed by

Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 973, strike lines 21 through 24 and inset the following:

(a) **FUNDING.**—

(1) **MANDATORY FUNDING.**—

(A) **IN GENERAL.**—Section 401(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)) is amended by striking paragraph (1) and inserting the following:

“(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of the Food and Energy Security Act of 2007, on October 1, 2008, and each October 1 thereafter through October 1, 2011, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account the amount that the Secretary estimates will be made available for the applicable fiscal year as a result of the enactment of section 7201(a)(1)(B) of that Act.”.

(B) **OFFSET.**—Notwithstanding title I or any amendment made by title I, a person or legal entity shall not be eligible for, and the Secretary shall not make to any person or legal entity, any individual payment under subtitles A through E of title I or an amendment made by those titles in an amount that is less than \$50.

(2) **DISCRETIONARY FUNDING.**—Section 401(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)) is amended by striking paragraph (3) and inserting the following:

SA 3800. Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) proposed an amendment to the bill H.R. 2761, to extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Terrorism Risk Insurance Program Reauthorization Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of act of terrorism.
- Sec. 3. Reauthorization of the Program.
- Sec. 4. Annual liability cap.
- Sec. 5. Enhanced reports to Congress.

SEC. 2. DEFINITION OF ACT OF TERRORISM.

Section 102(1)(A)(iv) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by striking “acting on behalf of any foreign person or foreign interest”.

SEC. 3. REAUTHORIZATION OF THE PROGRAM.

(a) **TERMINATION DATE.**—Section 108(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by striking “2007” and inserting “2014”.

(b) **ADDITIONAL PROGRAM YEARS.**—Section 102(11) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by adding at the end the following:

“(G) **ADDITIONAL PROGRAM YEARS.**—Except when used as provided in subparagraphs (B) through (F), the term ‘Program Year’ means, as the context requires, any of Program Year 1, Program Year 2, Program Year 3, Program Year 4, Program Year 5, or any of calendar years 2008 through 2014.”.

(c) **CONFORMING AMENDMENTS.**—The Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

- (1) in section 102(7)(F)—

(A) by inserting “and each Program Year thereafter” before “, the value”; and

(B) by striking “preceding Program Year 5” and inserting “preceding that Program Year”;

(2) in section 103(e)(1)(A), by inserting “and each Program Year thereafter” after “Year 5”;

(3) in section 103(e)(1)(B)(ii), by inserting before the period at the end “and any Program Year thereafter”;

(4) in section 103(e)(2)(A), by striking “of Program Years 2 through 5” and inserting “Program Year thereafter”;

(5) in section 103(e)(3), by striking “of Program Years 2 through 5,” and inserting “other Program Year”; and

(6) in section 103(e)(6)(E), by inserting “and any Program Year thereafter” after “Year 5”.

SEC. 4. ANNUAL LIABILITY CAP.

(a) IN GENERAL.—Section 103(e)(2) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) in subparagraph (A)—

(A) by striking “(until such time as the Congress may act otherwise with respect to such losses)”; and

(B) in clause (ii), by striking “that amount” and inserting “the amount of such losses”; and

(2) in subparagraph (B), by inserting before the period at the end “, except that, notwithstanding paragraph (1) or any other provision of Federal or State law, no insurer may be required to make any payment for insured losses in excess of its deductible under section 102(7) combined with its share of insured losses under paragraph (1)(A) of this subsection”.

(b) NOTICE TO CONGRESS.—Section 103(e)(3) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by adding at the end the following: “The Secretary shall provide an initial notice to Congress not later than 15 days after the date of an act of terrorism, stating whether the Secretary estimates that aggregate insured losses will exceed \$100,000,000,000.”; and

(2) by striking “and the Congress shall” and all that follows through the end of the paragraph and inserting a period.

(c) REGULATIONS FOR PRO RATA PAYMENTS; REPORT TO CONGRESS.—Section 103(e)(2)(B) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by striking “For purposes” and inserting the following:

“(i) IN GENERAL.—For purposes”; and

(2) by adding at the end the following:

“(ii) REGULATIONS.—Not later than 240 days after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Secretary shall issue final regulations for determining the pro rata share of insured losses under the Program when insured losses exceed \$100,000,000,000, in accordance with clause (i).

“(iii) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Secretary shall provide a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the process to be used by the Secretary for determining the allocation of pro rata payments for insured losses under the Program when such losses exceed \$100,000,000,000.”

(d) DISCLOSURE.—Section 103(b) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) in the case of any policy that is issued after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the insurer provides clear and conspicuous disclosure to the policyholder of the existence of the \$100,000,000,000 cap under subsection (e)(2), at the time of offer, purchase, and renewal of the policy.”

(e) SURCHARGES.—Section 103(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) in paragraph (7)—

(A) in subparagraph (C), by inserting “133 percent of” before “any mandatory recoupment”; and

(B) by adding at the end the following:

“(E) TIMING OF MANDATORY RECOUPMENT.—

“(i) IN GENERAL.—If the Secretary is required to collect terrorism loss risk-spreading premiums under subparagraph (C)—

“(I) for any act of terrorism that occurs on or before December 31, 2010, the Secretary shall collect all required premiums by September 30, 2012;

“(II) for any act of terrorism that occurs between January 1 and December 31, 2011, the Secretary shall collect 35 percent of any required premiums by September 30, 2012, and the remainder by September 30, 2017; and

“(III) for any act of terrorism that occurs on or after January 1, 2012, the Secretary shall collect all required premiums by September 30, 2017.

“(ii) REGULATIONS REQUIRED.—Not later than 180 days after the date of enactment of this subparagraph, the Secretary shall issue regulations describing the procedures to be used for collecting the required premiums in the time periods referred to in clause (i).

“(F) NOTICE OF ESTIMATED LOSSES.—Not later than 90 days after the date of an act of terrorism, the Secretary shall publish an estimate of aggregate insured losses, which shall be used as the basis for determining whether mandatory recoupment will be required under this paragraph. Such estimate shall be updated as appropriate, and at least annually.”; and

(2) in paragraph (8)—

(A) in subparagraph (C)—

(i) by striking “(including any additional amount included in such premium” and inserting “collected”; and

(ii) by striking “(D))” and inserting “(D)”; and

(B) in subparagraph (D)(ii), by inserting before the period at the end “, in accordance with the timing requirements of paragraph (7)(E)”.

SEC. 5. ENHANCED REPORTS TO CONGRESS.

(a) STUDY AND REPORT ON INSURANCE FOR NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL TERRORIST EVENTS.—Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by adding at the end the following:

“(f) INSURANCE FOR NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL TERRORIST EVENTS.—

“(1) STUDY.—The Comptroller General of the United States shall examine—

“(A) the availability and affordability of insurance coverage for losses caused by terrorist attacks involving nuclear, biological, chemical, or radiological materials;

“(B) the outlook for such coverage in the future; and

“(C) the capacity of private insurers and State workers compensation funds to manage risk associated with nuclear, biological, chemical, and radiological terrorist events.

“(2) REPORT.—Not later than 1 year after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Com-

mittee on Financial Services of the House of Representatives a report containing a detailed statement of the findings under paragraph (1), and recommendations for any legislative, regulatory, administrative, or other actions at the Federal, State, or local levels that the Comptroller General considers appropriate to expand the availability and affordability of insurance for nuclear, biological, chemical, or radiological terrorist events.”

(b) STUDY AND REPORT ON AVAILABILITY AND AFFORDABILITY OF TERRORISM INSURANCE IN SPECIFIC MARKETS.—Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by adding at the end the following:

“(g) AVAILABILITY AND AFFORDABILITY OF TERRORISM INSURANCE IN SPECIFIC MARKETS.—

“(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether there are specific markets in the United States where there are unique capacity constraints on the amount of terrorism risk insurance available.

“(2) ELEMENTS OF STUDY.—The study required by paragraph (1) shall contain—

“(A) an analysis of both insurance and reinsurance capacity in specific markets, including pricing and coverage limits in existing policies;

“(B) an assessment of the factors contributing to any capacity constraints that are identified; and

“(C) recommendations for addressing those capacity constraints.

“(3) REPORT.—Not later than 180 days after the date of enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, the Comptroller General shall submit a report on the study required by paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.”

(c) ONGOING REPORTS.—Section 108(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) in paragraph (1)—

(A) by inserting “ongoing” before “analysis”; and

(B) by striking “, including” and all that follows through the end of the paragraph, and inserting a period; and

(2) in paragraph (2)—

(A) by inserting “and thereafter in 2010 and 2013,” after “2006.”; and

(B) by striking “subsection (a)” and inserting “paragraph (1)”.

SA 3801. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 274, to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; which was ordered to lie on the table; as follows:

After subsection (n), insert the following:

(o) REPORTING REQUIREMENTS.—

(1) GOVERNMENT ACCOUNTABILITY OFFICE.—

(A) IN GENERAL.—Not later than 40 months after the date of enactment of this Act, the Government Accountability Office shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives on the implementation of this Act.

(B) CONTENTS.—The report under this paragraph shall include—

(i) an analysis of any changes in the number of cases filed with the United States Merit Systems Protection Board alleging violations of section 2302(b)(8) or (9) of title 5, United States Code, since the effective date of the Act;

(ii) the outcome of the cases described under clause (i), including whether or not the United States Merit Systems Protection Board, the Federal Circuit Court of Appeals, or any other court determined the allegations to be frivolous or malicious; and

(iii) any other matter as determined by the Government Accountability Office.

(2) MERIT SYSTEMS PROTECTION BOARD.—

(A) IN GENERAL.—Each report submitted annually by the Merit Systems Protection Board under section 1116 of title 31, United States Code, shall, with respect to the period covered by such report, include as an addendum the following:

(i) Information relating to the outcome of cases decided during the applicable year of the report in which violations of section 2302(b)(8) or (9) of title 5, United States Code, were alleged.

(ii) The number of such cases filed in the regional and field offices, the number of petitions for review filed in such cases, and the outcomes of such cases.

(B) FIRST REPORT.—The first report described under subparagraph (A) submitted after the date of enactment of this Act shall include an addendum required under that subparagraph that covers the period beginning on January 1, 2008 through the end of the fiscal year 2008.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate and continue an executive business meeting on Friday, November 16, 2007, at 9:45 a.m. in room S-216, of the Capitol.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Friday, November 16, 2007. The Committee will meet off the Senate Floor in the Reception Room to consider the nomination of Michael W. Hager to be an Assistant Secretary of Veterans Affairs for Human Resources and Management after the first floor vote that occurs on Friday.

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

PRIVILEGES OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that my research director, Ron Hindle, be given floor privileges for the remainder of the day.

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

EXECUTIVE SESSION

PROTOCOL AMENDING TAX CONVENTION WITH DENMARK

PROTOCOL AMENDING TAX CONVENTION WITH FINLAND

Mr. WEBB. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 3 and 4 en bloc, the Protocol Amending Tax Convention with Denmark and the Protocol Amending Tax Convention with Finland; that the protocols be advanced through their various parliamentary stages up to and including the presentation of the resolutions of ratification, and that there now be a division vote on the resolutions en bloc.

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

A division has been requested.

Senators in favor of the resolutions of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

The Senate advises and consents to the ratification of the Protocol Amending the Convention between the Government of the United States of America and the Government of the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Copenhagen on May 2, 2006 (Treaty Doc. 109-19).

Resolved, (two-thirds of the Senators present concurring therein),

The Senate advises and consents to the ratification of the Protocol Amending the Convention between the Government of the United States of America and the Government of the Republic of Finland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed at Helsinki on May 31, 2006 (Treaty Doc. 109-18).

Mr. WEBB. Mr. President, I ask unanimous consent that the motions to reconsider be laid on the table, and the President be immediately notified of the Senate's action.

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

EXECUTIVE CALENDAR

Mr. WEBB. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Executive Calendar Nos. 378 through 391, the nomination of Michael Hager to be an Assistant Secretary of Veterans Affairs, reported out earlier today by the Veterans' Affairs Committee, and all nominations on the Security's desk; that the nominations be confirmed, the motions to reconsider be laid on the

table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Mark D. Gearan, of New York, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring December 1, 2010.

Julie Fisher Cummings, of Michigan, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring September 14, 2011.

Donna N. Williams, of Texas, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2009.

Tom Osborne, of Nebraska, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2012.

Alan D. Solomont, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2009.

DEPARTMENT OF DEFENSE

Douglas A. Brook, of California, to be an Assistant Secretary of the Navy.

John J. Young, Jr., of Virginia, to be Under Secretary of Defense for Acquisition, Technology, and Logistics.

DEPARTMENT OF ENERGY

Robert L. Smolen, of Pennsylvania, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Carroll H. Chandler, 9115

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Donald L. Rutherford, 5430

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., sections 624 and 3064:

To be brigadier general

Colonel Joseph Carvalho, Jr., 7925

Colonel Rhonda L. S. Cornum, 2574

Colonel Keith W. Gallagher, 5366

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Thomas F. Metz, 5686

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Jeffrey A. Sorenson, 3510

THE JUDICIARY

Reed Charles O'Connor, of Texas, to be United States District Judge for the Northern District of Texas.