Waters	Welch (VT)	Wu
Watson	Weller	Yarmuth
Watt	Wexler	Young (AK)
Waxman	Wilson (OH)	
Weiner	Woolsey	

NOES—165

Aderholt	Frelinghuysen	Nunes
Akin	Gallegly	Paul
Alexander	Garrett (NJ)	Pearce
Bachmann	Gerlach	Peterson (PA)
Bachus	Gingrey	Petri
Barrett (SC)	Gohmert	Pickering
Bartlett (MD)	Goode	Pitts
Biggert	Granger	Platts
Bilbray	Graves	Poe
Bilirakis	Hall (TX)	Price (GA)
Bishop (UT)	Hastings (WA)	Pryce (OH)
Blackburn	Hayes	Putnam
Bonner	Heller	Radanovich
Bono Mack	Hensarling	Ramstad
Boozman	Herger	Rehberg
Brady (TX)	Hobson	Reichert
Broun (GA)	Hoekstra	Renzi
Brown (SC)	Hulshof	Reynolds
Brown-Waite, Ginny	Inglis (SC)	Rogers (AL)
Buchanan	Johnson (IL)	Rogers (KY)
Burgess	Johnson, Sam	Rogers (MI)
Burton (IN)	Jones (NC)	Rohrabacher
Buyer	Jordan	Roskam
Calvert	Keller	Royce
Camp (MI)	King (IA)	Ryan (WI)
Campbell (CA)	King (NY)	Sali
Cannon	Kirk	Saxton
Cantor	Kline (MN)	Schmidt
Capito	Knollenberg	Sensenbrenner
Carter	Kuhl (NY)	Sessions
Chabot	Lamborn	Shadegg
Coble	Latham	Shimkus
Conaway	Latta	Shuster
Crenshaw	Lewis (CA)	Simpson
Cubin	Lewis (KY)	Smith (NE)
Culberson	Linder	Smith (TX)
Davis (KY)	Lucas	Souder
Davis, David	Lungren, Daniel E.	Stearns
Deal (GA)	Mack	Sullivan
Dent	Manzullo	Tancredo
Doolittle	Marchant	Terry
Drake	McCarthy (CA)	Thornberry
Dreier	McCaul (TX)	Tiahrt
Duncan	McCrery	Tiberi
Ehlers	McHenry	Turner
Emerson	McKeon	Walberg
Everett	McMorris Rodgers	Walden (OR)
Fallin	Mica	Wamp
Feeney	Miller (FL)	Weldon (FL)
Ferguson	Miller, Gary	Westmoreland
Flake	Moran (KS)	Whitfield (KY)
Fortenberry	Musgrave	Wilson (NM)
Fossella	Myrick	Wilson (SC)
Foxx	Neugebauer	Wittman (VA)
Franks (AZ)		Wolf
		Young (FL)

NOT VOTING—19

Andrews	Davis, Tom	Issa
Barton (TX)	Dicks	Payne
Blunt	Doggett	Pence
Boehner	Forbes	Rush
Boustany	Goodlatte	Wynn
Boyd (FL)	Hill	
Cole (OK)	Hunter	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1856

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5715. An act to ensure continued availability of access to the Federal student loan program for students and families.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5522, COMBUSTIBLE DUST EXPLOSION AND FIRE PREVENTION ACT OF 2008

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 5522, the Clerk be authorized to correct the table of contents, section numbers, punctuation, citations, and cross-references and to make such other technical and conforming changes as may be appropriate to reflect the actions of the House.

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

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. RYAN of Wisconsin. Madam Speaker, I hereby give notice of my intention to offer a motion to instruct conferees on H.R. 2419, pursuant to clause 7(c) of rule XXI.

The form of the motion is as follows:

Mr. Ryan of Wisconsin moves that the managers on the part of the House on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 be instructed, within the scope of the conference, to use the most recent baseline estimates supplied by the Congressional Budget Office when evaluating the costs of the provisions of the report.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1201

Mr. SOUDER. Madam Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 1201.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2448

Mr. SALI. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2448.

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

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. KIND. Madam Speaker, under rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 2419.

The form of the motion is as follows:

Mr. Kind moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 (an Act to provide for the continuation of agricultural programs through fiscal year 2012) be instructed to—

(1) insist on the amendment contained in section 2401(d) of the House bill (relating to funding for the environmental quality incentive program);

(2) insist on the amendments contained in section 2104 of the House bill (relating to the grassland reserve program) and reject the amendment contained in section 2401(2) of the Senate amendment (relating to funding for the grassland reserve program);

(3) insist on the amendments contained in section 2102 of the House bill (relating to the wetland reserve program); and

(4) insist on the amendments contained in section 2608 of the Senate bill (relating to crop insurance ineligibility relating to crop production on native sod).

□ 1900

NEED-BASED EDUCATIONAL AID ACT OF 2008

Mr. DELAHUNT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1777) to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1777

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Need-Based Educational Aid Act of 2008''.

SEC. 2. AMENDMENT.

Subsection (d) of section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is repealed.

The SPEAKER pro tempore (Mr. LOEBSACK). Pursuant to the rule, the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. DELAHUNT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

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

First, I want to thank the Chair of the Judiciary Committee for allowing this important piece of legislation to move forward. I particularly want to thank the ranking member of the Judiciary Committee, Mr. LAMAR SMITH, for the opportunity to work with him on this significant legislation and for

his outstanding work on this issue throughout the year.

The Need-Based Educational Aid Act of 2008, as its name suggests, is aimed at making college more affordable and accessible to qualified students, something that this Congress has repeatedly shown its commitment to. With overwhelming bipartisan majorities, we have passed such legislation as the College Cost Reduction and Access Act, and just last week, the Ensuring Continued Access to Student Loans Act. We have also increased transparency in the higher educational financial aid system by passing the Student Loan Sunshine Act.

H.R. 1777 will further that commitment to enhance educational opportunities. These successes are rooted in clear recognition on both sides of the aisle that access to higher education is vital to our national economy and central to America's promise.

However, the Need-Based Educational Act differs from those bills I just enumerated in two important aspects. First, this bill addresses institutional aid only. That is, aid provided to students from a college or university's own funds, not Federal dollars. Second, this bill is about increasing access to grants, as opposed to loans. Given the current cost of higher education, the financial sacrifices families make to send their children to college, and the amount students owe when they graduate, grants, as opposed to loans, play a vital and unique role in maintaining access to higher education.

This act will permanently extend the current antitrust exemption for colleges and universities that admit all students on a need-blind basis, without regard to a student's ability to pay, and provide institutional aid that is strictly need-based. This safe harbor from the antitrust laws allows two or more of these schools to agree on a common aid application in a common system of analysis of financial need, and to exchange information on commonly admitted students. It does not permit discussion or comparison of institutional awards for individual students. The current exemption expires on September 30 of this year.

Why is this bill necessary? Beginning in the 1950s, a substantial number of our most prestigious private colleges and universities agreed to award institutional financial aid to students solely on the basis of demonstrated financial need. The schools recognized that, without such an agreement, and without a uniform analysis of ''need,'' the schools would spend all of their money competing with each other to offer the largest aid package to a small select group of elite students. As a practical matter, the schools would be unable to fill the available spots in each incoming class because the select top students, who may or may not need such aid, were few in number. In addition, though, there would be many highly meritorious students who would be forced to forego their admission because of limited economic circumstances and insufficient financial aid.

The schools' decision was made in service of a social goal that the antitrust laws do not address, namely, making financial aid available to the broadest pool of students solely on the basis of demonstrated financial need. Congress responded quickly, passing the first temporary antitrust exemption in 1992, and we have reauthorized the exemption three times, each time improving and extending the exemption over the previous iteration.

The current exemption allows the schools to agree on this system of need-blind admissions and need-based aid, and allows a one-time exchange of student financial information through a third party. However, any further information-sharing is prohibited.

Since the last extension, both the GAO and the Antitrust Modernization Commission have examined the exemption and have found it consistent with antitrust principles. The schools themselves have lauded the exemption for increasing access to need-based aid and for bringing greater transparency to financial aid allocations. However, without this safe harbor, the schools fear that their collaboration on financial aid policies would subject them to prosecution.

Many studies show that our Nation's poorest students benefit the most from attendance at a prestigious school and, conversely, stand to lose the most from lack of access. Fortunately, these schools were empowered to continue and expand upon this truly American ideal that no individual should be denied a real chance to succeed because he or she was born poor.

I urge my colleagues to join myself and Mr. SMITH in passing the Need-Based Educational Aid Act.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I am glad we are considering this timely legislation tonight, H.R. 1777, the Need-Based Educational Aid Act of 2008. I also want to thank the gentleman from Massachusetts (Mr. DELAHUNT) for his tireless efforts in promoting this legislation, and also for his leadership, because if it were not for his leadership, we would not be here tonight considering this important bill. It was good working with him and I appreciate the success that he has had in getting us to this point. This issue has long been of interest to me personally as well. I also sponsored the bill that extended the exemption in 1997 and 2001.

Beginning in the mid-1950s, a number of private colleges and universities agreed to award financial aid solely on the basis of demonstrated need. These schools also agreed to use common criteria to assess each student's financial need and to give the same financial aid award to students admitted to more than one member of that group of schools. In the 1950s to the late 1980s, the practice continued.

In 1989, the Antitrust Division of the Department of Justice brought suit against nine of the colleges. After extensive litigation, the parties entered into a consent decree in 1991 that all but ended the practice. In 1992, Congress passed the first exemption to the antitrust laws for these colleges as part of the Higher Education Amendments. That temporary exemption codified the settlement and allowed colleges to provide aid on the basis of need only, to use common criteria to determine need, to use a common financial aid application form, and to allow the exchange of the student's financial information through a third party.

In 1994, Congress extended this exemption as section 568 of the Improving America's Schools Act. Congress has extended the exemption twice since 1994, in 1997 and 2001. Twenty-seven schools currently are members of the so-called Presidents' Group which utilizes this antitrust exemption. Several other colleges, including Yale and Harvard, participate as advisory members of the group. This exemption expires on September 30, 2008.

Common treatment of these types of issues makes sense and, to my knowledge, there are no complaints about the existing exemption. In fact, a recent GAO study of the exemption found that there had been no abuse of the exemption and stated that there had not been an increase in the cost of tuition as a result of the exemption. The Antitrust Modernization Commission studied this exemption and found that it provides ''limited immunity for limited conduct.'' That is, it is narrowly tailored to meet its goals of promoting access to need-based financial aid.

This bill would make the exemption passed in 1992, 1994, 1997, and 2001 permanent. It would not make any change to the substance of the exemption itself. The need-based financial aid system serves worthy goals that the antitrust laws do not adequately address, namely, making financial aid available to the broadest number of students solely on the basis of demonstrated need. No student who is otherwise qualified should be denied the opportunity to go to one of the colleges involved because of the limited financial means of his or her family. This bill helps protect need-based aid and need-blind admissions.

Mr. Speaker, the last time the House considered a permanent extension of this antitrust exemption, it passed by a vote of 414–0. The bill is supported by the American Association of Community Colleges, the American Association of State Colleges and Universities, the American Council on Education, the Association of American Universities, the National Association for Independent Colleges and Universities, the National Association of State Universities and Land-Grant Colleges, and the Presidents' Group. I urge my colleagues to support this bill as well.

Finally, Mr. Speaker, I want to again thank Mr. DELAHUNT for his work on this legislation and for getting us to the point where it is being considered tonight.

With that, I will yield back the balance of my time.

Mr. DELAHUNT. Mr. Speaker, before yielding my time back, I want to suggest that the eloquence of the ranking member of the Judiciary Committee will result in a more significant margin this year than that 410–0. Again, I sincerely appreciate his fine work.

Mr. CONYERS. Mr. Speaker, I support the bill cosponsored by Representative BILL DELAHUNT and Ranking Member LAMAR SMITH. H.R. 1777, the ''Need-Based Educational Aid Act of 2007,'' removes the current sunset attached to an exemption in the antitrust laws that permits schools to agree to award financial aid on a need-blind basis and to use common principles of needs analysis in making their determinations.

The exemption also allows for agreement on the use of a common aid application form and for the exchange of student financial information through a third party.

In 1992, Congress passed a similar temporary exemption, which was first extended in 1994, then again extended in 1997, and once again extended in 2001. The exemption passed in 2001 expires later this year. During the years of its operation, we have been able to witness and evaluate the exemption, and we have found that it seems to be working.

The need-based financial aid system makes financial aid available to the broadest number of students solely on the basis of demonstrated need. The schools have been concerned that without this exemption, they would be required to compete—through financial aid awards—for the very top students, which could result in a system in which the very top students receive an excess of the available aid while the rest of the applicant pool receives less or none at all. Ultimately, such a system could undermine the principles of need-based aid and need-blind admissions.

Because the exemption has thus far appeared warranted, I support H.R. 1777 and hope that it will continue to protect need-based aid and need-blind admissions, and preserve the opportunity for all students to attend one of the Nation's most prestigious schools.

Mr. DELAHUNT. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. DELAHUNT) that the House suspend the rules and pass the bill, H.R. 1777, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. FLAKE. Mr. Speaker, I have a motion to instruct at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Flake of Arizona moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 (an Act to provide for the continuation of agricultural programs through fiscal year 2012) be instructed to agree to the provisions contained in section 1703(b)(2) of the Senate amendment (relating to a $40,000 limitation on direct payments).

□ 1915

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. FLAKE) and the gentleman from Minnesota (Mr. PETERSON) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. I thank the Chair.

This motion to instruct conferees is simple. It would simply urge farm bill conferees to accept the Senate provision on the payment limits for annual direct payments, which is the same as current law. Again, we are simply asking to accept current law, rather than increase payments limitations. Let me explain.

Under current law, farmers and eligible landowners can receive $40,000 per person in direct payments per year, not including a loophole that currently exists that enables that amount to be doubled. The House-passed farm bill seeks to raise this limit to $60,000 per person, while the Senate passed bill keeps the limit at the $40,000 level as in current law. In essence, this motion to instruct conferees would simply say, retain current law. Don't increase the limit on how much a farmer or landowner can receive in direct payments.

Direct payments are one of the three primary subsidy programs available for commodity crops, along with countercyclical payments and marketing loan payments. Direct payments are paid to farmers and eligible landowners that have had so-called base acreage that was historically farmed for program crops like wheat or cotton or corn. Direct payments go to farmers and landowners whether the whether they farm or not on the property and are independent of crop prices. Simply put, these checks are in the mail to eligible recipients, no matter what the price of commodities.

While these payments were originally intended to transition farmers away from subsidies, it is unfortunate that they have come to take a permanent place in the entitlement spending landscape and that Congress is on the verge of upping the limits on how much recipients can receive.

These payments cost taxpayers more than $5 billion a year, under the last farm bill, that is, and while the bill under consideration might cut them by a minuscule amount, taxpayers will still foot a staggering bill.

These handouts are often distributed to landowners who don't farm. I have even heard anecdotes about rice farmers who later subdivide the land for mini-mansions even, and realtors will advertise that direct payments will come to the new landowners. Lucky them. Get a house on land that was previously a rice farm. You are going to be getting direct payments. How is that? How can we countenance a situation like that continuing?

According to a recent analysis by the Environmental Working Group, with the present loopholes that are available to recipients, ''a total of 1,234 recipients collected direct payment subsidies worth $120,000 or more, costing taxpayers $226 million total. One hundred forty-nine recipients got more than $250,000 in direct payments. The top 10 percent of direct payment subsidy recipients in 2007 collected about 60 percent of this government money.'' These are the payments on which the House-passed bill would increase the limit by 50 percent.

We have a strong agricultural economy at present. Unlike the countercyclical and marketing loan programs, which, if you have a good agricultural economy, don't get paid out, this program keeps paying out no matter what. These are independent of crop prices.

It is unfathomable that U.S. farmers that are enjoying historically low debt-to-asset ratios and consistently high cash receipts and robust farm export values, under this scenario the conferees would need to increase the limit on direct payments beyond the current $40,000 limits. It is unfortunate. It looks like the 2007 farm bill will be a missed opportunity to reform the wasteful farm subsidy programs, like the one I have spoken about.

As approved by the House, the best that can be achieved in terms of reform is a reduction in the income cap for payment eligibility programs from $2.5 million to $1 million or $2 million for married folks. Even though the administration has sought a $200,000 income cap, both the House and the Senate it seems, and it seems the conferees, appear content to continue to allow millionaires to receive farm payments. While acting as if real reform had been made on the income cap, the House-passed farm bill actually relaxes the limits on how much a recipient can receive in farm payments.

We simply cannot go in this direction. We have been told again and again and again by both sides of the aisle that we won't have a farm bill that has the generous subsidy payments that we have had before, that there has to be reform. This is not reform.

Some people may try to sell it and say we are getting rid of a loophole there, so we will have to increase this, and then we will phase it out at some other time. That is probably what we will hear. When you hear that, hold on to your wallet.