

“(c) SATISFACTORY PROGRESS.—

“(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

“(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

“(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

“(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

“(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

“(A) the death of a relative of the student;

“(B) the personal injury or illness of the student; or

“(C) special circumstances as determined by the institution.

“(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

“(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

“(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

“(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

“(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

“(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20

U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

“(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

“(3) DEFINITION.—For the purposes of this subsection, the term ‘telecommunications’ means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

“(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

“(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

“(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

“(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

“(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

“(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.”.

Subtitle D—Immunity

#### SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product man-

ufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

Subtitle E—Resolution of Conflict with Title XV

#### SEC. 1051. TITLE XV NULL AND VOID.

Notwithstanding any other provision of this Act, title XV shall have no force or effect.

### MINIDOKA PROJECT ACT OF 1998

#### CRAIG AMENDMENT NO. 2698

(Ordered to lie on the table.)

Mr. CRAIG submitted an amendment intended to be proposed by him to the bill (S. 538) to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes; as follows:

(1) Paragraph 1(b)(1) of the Committee amendment is amended by deleting “transmission lines,” and by deleting “(including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley)”.

(2) Paragraph 1(c)(1) of the Committee amendment is modified to read as follows:

“(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(1) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District; and

(2) that are for use on lands within the Burley Irrigation District; and

(3) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company v. Charles N. Foster, et al.*, and commonly referred to as the “Foster decree”.

“(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

“(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or results in any adverse impact on any other project water user.”

### NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

#### KERREY AMENDMENTS NOS. 2699–2700

(Ordered to lie on the table.)

Mr. KERREY submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

#### AMENDMENT NO. 2699

At the end of subtitle D of title XV, add the following:

**SEC. 1563. TOBACCO PRODUCERS MARKETING CORPORATION.**

(a) **ESTABLISHMENT.**—There is established a corporation to be known as the "Tobacco Producers Marketing Corporation", which shall be a federally chartered instrumental-ity of the United States.

(b) **DUTIES.**—The Corporation negotiate with buyers of tobacco produced in the United States on behalf of producers of the tobacco that elect to be represented by the Corporation (referred to in this section as "participating producers").

(c) **BOARD OF DIRECTORS.**—

(1) **IN GENERAL.**—The powers of the Corporation shall be vested in a Board of Directors.

(2) **MEMBERS.**—The Board of Directors shall composed of members elected by participating producers.

(3) **MEMBERSHIP QUALIFICATIONS.**—A member of the Board shall not hold any Federal, State, or local elected office or be a Federal officer or employee.

(4) **CHAIRPERSONS.**—The chairperson of the Board shall be elected by members of the Board.

(5) **EXECUTIVE DIRECTOR.**—

(A) **APPOINTMENT.**—The Board shall appoint an Executive Director.

(B) **DUTIES.**—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Board.

(C) **COMPENSATION.**—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(6) **OFFICERS.**—The Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this section.

(7) **MEETINGS.**—

(A) **IN GENERAL.**—The Board shall meet at least 3 times each fiscal year at the call of a Chairperson or at the request of the Executive Director.

(B) **LOCATION.**—The location of a meeting shall be subject to approval of the Executive Director.

(C) **QUORUM.**—A quorum of the Board shall consist of a majority of the members.

(8) **TERM; VACANCIES.**—

(A) **TERM.**—The term of office of a member of the Board elected under paragraph (2) shall be 4 years.

(B) **VACANCIES.**—A vacancy on the Board shall be filled in the same manner as the original appointment was made.

(9) **COMPENSATION.**—

(A) **IN GENERAL.**—A member of the Board shall receive, for each day (including travel time) that the member is engaged in the performance of the functions of the Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) **EXPENSES.**—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

(10) **CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.**—

(A) **CONFLICT OF INTEREST.**—Except as provided in subparagraph (C), a member of the Board shall not vote on any matter concerning any application, contract, or claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner of the member, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with

which the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(B) **VIOLATIONS.**—Violation of subparagraph (A) by a member of the Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

(C) **EXCEPTIONS.**—

(i) **IN GENERAL.**—Except as provided in clause (ii), the prohibitions contained in subparagraph (A) shall not apply if—

(I) a member of the Board advises the Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation; and

(II) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter.

(ii) **VOTE.**—The member involved shall not vote on the determination under clause (i)(II).

(D) **FINANCIAL DISCLOSURE.**—A Board member shall be subject to the financial disclosure requirements of subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

(11) **BYLAWS.**—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation.

(12) **PERSONNEL.**—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

(d) **GENERAL POWERS.**—In addition to any other powers granted to the Corporation under this section, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

(3) may enter into any agreement or contract with a person or private or governmental agency;

(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation;

(5) may sue and be sued in the corporate name of the Corporation, except that—

(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

(B) exclusive original jurisdiction shall reside in the district courts of the United States, and the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

(6) may independently retain legal representation;

(7) may provide for and designate such committees, and the functions of the committees, as the Board considers necessary or desirable;

(8) may indemnify officers of the Corporation, as the Board considers necessary and desirable, except that the officers shall not be indemnified for an act outside the scope of employment;

(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Govern-

ment, including any field service, use information, services, facilities, officials, and employees in carrying out this section, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this title and the powers, purposes, functions, duties, and authorized activities of the Corporation.

#### AMENDMENT No. 2700

Strike title XV and insert the following:

#### TITLE XV—TOBACCO TRANSITION

#### SEC. 1501. DEFINITIONS.

In this title:

(1) **GOVERNOR.**—The term "Governor" means the chief executive officer of a State.

(2) **LEASE.**—The term "lease" means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(3) **OWNER.**—The term "owner" means a person that, on the date of enactment of this Act, owns quota provided by the Secretary.

(4) **PRODUCER.**—The term "producer" means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota or farmland;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(5) **QUOTA.**—The term "quota" means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

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

(7) **STATE.**—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(8) **TOBACCO.**—The term "tobacco" means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

Subtitle A—Payments for Lost Value of Tobacco Crops

**SEC. 1511. PAYMENTS FOR LOST VALUE OF TOBACCO CROPS.**

(a) IN GENERAL.—For each of fiscal years 1999 through 2005, the Secretary shall make payments for the lost value of tobacco crops to owners and producers from funds made available from the National Tobacco Trust Fund established by section 401.

(b) AMOUNT.—

(1) OWNERS.—The amount of the payment made to an owner for a fiscal year under this section shall equal 30 percent of the value of the tobacco produced under a tobacco farm marketing quota or farm acreage allotment established owned by the owner under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

(2) PRODUCERS.—The amount of the payment made to a producer for a fiscal year under this section shall equal 15 percent of the value of the tobacco produced by the producer under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for the 1997 crop year.

Subtitle B—Rural Economic Assistance Block Grants

**SEC. 1521. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.**

(a) IN GENERAL.—From funds made available from the National Tobacco Trust Fund established by section 401, the Secretary shall use \$200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on, as determined by the Secretary—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2003.

Subtitle C—Tobacco Price Support and Production Adjustment Programs

**SEC. 1531. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.**

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

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

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

(3) in subsection (d)(3)—

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

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

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

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

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

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

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

(f) TRANSITION PROVISIONS.—

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

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

(A) the orderly disposition of tobacco stocks; and

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

(g) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

**SEC. 1532. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.**

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

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

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

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

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

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

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

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

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

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

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

(6) in paragraph (12), by striking "tobacco,";

(7) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

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

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

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

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

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

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

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

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

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

(2) in the first sentence of subsection (b), by striking "peanuts or tobacco" and inserting "or peanuts";

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

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

(2) in subsection (a)—

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

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

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

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

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

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

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

(1) in subsection (a)—

(A) by striking "(a)"; and

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

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

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

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

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

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

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

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

(q) **CROPS.**—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

#### Subtitle D—Miscellaneous

#### SEC. 1541. SAVINGS.

Any savings derived as a result of this title shall be used for tobacco use prevention and cessation initiatives.

#### FAIRCLOTH (AND OTHERS) AMENDMENT NO. 2701

(Ordered to lie on the table.)

Mr. FAIRCLOTH (for himself, Mr. SESSIONS, Mr. McCONNELL, and Mr. GRAMM) proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill, S. 1415, as follows:

At the appropriate place, insert the following:

#### SEC. . ATTORNEYS' FEES AND EXPENSES.

(a) **FEE ARRANGEMENTS.**—Subsection (c) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

- (1) court order;
- (2) settlement agreement;
- (3) contingency fee arrangement;
- (4) arbitration procedure;
- (5) alternative dispute resolution procedure (including mediation);
- (6) retainer agreements; or
- (7) other arrangement providing for the payment of attorneys' fees.

(b) **APPLICATION.**—This section shall apply to all fees paid or to be paid to attorneys under any arrangement described in subsection (a)—

(1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that

are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection; or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection.

#### (c) ATTORNEYS' FEES.

(1) **JURISDICTION.**—The determination of attorneys' fees for compensation subject to this section shall be within the jurisdiction of—

(A) the court in which the action for which the claimant attorney is making a claim is pending; or

(B) an arbitration panel selected by the parties or otherwise selected by law.

(2) **CRITERIA.**—In the determination of attorneys' fees subject to this section, the court or arbitration panel shall consider—

(A) The likelihood at the commencement of the representation that the claimant attorney would secure a favorable judgment, a substantial settlement, or a successful negotiation towards a global settlement agreement for submission to the Congress;

(B) The amount of time and labor that the claimant attorney reasonably believed at the commencement of the representation that he was likely to expend on the claim;

(C) The amount of productive time and labor that the claimant attorney actually invested in the representation as determined through an examination of contemporaneous and reconstructed time records;

(D) The obligations undertaken by the claimant attorney at the commencement of the representation including—

(i) whether the claimant attorney was obligated to proceed with the representation through its conclusion or was permitted to withdraw from the representation; and

(ii) whether the claimant attorney assumed an unconditional commitment for expenses incurred pursuant to the representation;

(E) The expenses actually incurred by the claimant attorney pursuant to the representation including—

(i) whether those expenses were reimbursable; and

(ii) the likelihood on each occasion that expenses were advanced that the claimant attorney would secure a favorable judgment or substantial settlement;

(F) The novelty of the legal issues before the claimant attorney and whether the legal work was innovative or modeled after the work of others or prior work of the claimant attorney;

(G) The skill required for proper performance of the legal services rendered;

(H) The results obtained and whether those results were or are appreciably better than the results obtained by other lawyers representing comparable clients or similar claims;

(I) Whether the original fee arrangement includes a fixed or a percentage fee;

(J) The reduced degree of risk borne by the claimant attorney in the representation and the increased likelihood that the claimant attorney would secure a favorable judgment or substantial settlement based on a chronological progression of relevant developments from the 1994 Williams document disclosures to the settlement negotiations and the subsequent Federal legislative process; and

(K) Whether this Act or related changes to State laws increase the likelihood of success in representations subject to this section.

(3) **LIMITATION.**—Notwithstanding any other provision of law, any attorney's fees or expenses paid to attorneys for matters subject to this section shall not exceed a per hour rate of \$1,000 in addition to 200 percent of actual out-of-pocket expenses for which detailed documentation has been provided and which have been approved by the court or arbitration panel in such action.

(4) **RECORDS REQUIREMENT.**—All records submitted to a court or arbitration panel pursuant to this section shall be available for public inspection and reproduction for a period of one year from the date of adjudication of the attorneys' fees.

(d) **SEVERABILITY.**—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such section to any person or circumstance shall not be affected thereby.

#### REED (AND OTHERS) AMENDMENT NO. 2702

Mr. REED (for himself, Mrs. BOXER, Mr. WYDEN, Mr. KENNEDY, Mr. DASCHLE, Mr. DURBIN, Mr. WELLSTONE, Mrs. FEINSTEIN, and Mr. CONRAD) proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill, S. 1415, supra; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . DISALLOWANCE OF TAX DEDUCTIONS FOR ADVERTISING, PROMOTIONAL, AND MARKETING EXPENSES RELATING TO TOBACCO PRODUCT USE UNLESS CERTAIN ADVERTISING REQUIREMENTS ARE MET.

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following:

#### "SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING, PROMOTIONAL, AND MARKETING EXPENSES UNLESS CERTAIN ADVERTISING REQUIREMENTS ARE MET.

"(a) **IN GENERAL.**—No deduction shall be allowed under this chapter for any taxable year for expenses relating to advertising, promoting, or marketing cigars, cigarettes, smokeless tobacco, pipe tobacco, roll-your-own tobacco, or any similar tobacco product unless the taxpayer maintains compliance during such year with the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996.

"(b) **GENERAL DEFINITIONS.**—For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702."

(b) **CONFORMING AMENDMENT.**—The table of sections for such part IX is amended by adding after the item relating to section 280H the following:

"Sec. 280I. Disallowance of deduction for tobacco advertising, promotional, and marketing expenses unless certain advertising requirements are met."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.