has received the unanimous, bipartisan backing of the committee.

Mr. Howard was given a hearing by the Senate Judiciary Committee due to Senator BOB SMITH's efforts. The Senator from New Hampshire is not someone with whom I agree on all issues. Indeed, we have had our disagreements on judicial nominations. He has applied a litmus test over the years and voted against nominees he felt were not against abortion. He voted against at least 20 Clinton judicial nominees. Nonetheless, when Senator SMITH spoke to me about his support for Mr. Howard, I accommodated Senator SMITH's request that we proceed promptly with a hearing on him. Mr. Howard is being confirmed by the U.S. Senate today, because Senator SMITH worked to have this nomination considered favorably.

Some on the other side of the aisle have falsely charged that if a nominee has a record as a conservative Republican, he will not be considered by the committee. That is simply untrue. Take, for example, the nomination of Jeffrey Howard. Just 2 years ago, he campaigned for the Republican nomination for Governor of New Hampshire. He has been a prominent figure in Republican politics in New Hampshire for many years. He served as the New Hampshire Attorney General, the State Deputy Attorney General, and the Chief Counsel in the Consumer Protection Division. He also served as the U.S. Attorney for the District of New Hampshire and the Principal Associate Deputy Attorney General during the first Bush administration. Thus, it would be wrong to claim that we will not consider President George W. Bush's nominees with conservative credentials. We have done so repeatedly.

The committee voted unanimously to report Mr. Howard's nomination to the floor, even though a minority of the ABA committee found the nominee to be not qualified for appointment to the U.S. Court of Appeals for the First Circuit. No Senator is bound by the recommendations of the ABA, but we have always valued their contribution to the process and the willingness of the members of the ABA standing committee to volunteer their time, efforts and judgment to this important task. Based on the judgment of each individual Member about the qualifications of a particular nominee, the Judiciary Committee has reported out other Bush nominees who received mixed ABA peer review ratings and even some with negative recommendations. Mr. Howard is well-regarded by his home-State Senators. The next time Republican critics are bandying around charges that the Democratic majority has failed to consider conservative judicial nominees, I hope someone will ask those critics about Jeffrey Howard, as well as the many other conservative nominees we have proceeded to consider and confirm.

Mr. HATCH. Mr. President, I rise in support of the confirmation of Mr. Jeffrey Howard to the First Circuit Court of Appeals. Mr. Howard's record is impressive. He will make a valuable contribution to an already prestigious First Circuit Court of Appeals.

Mr. Howard graduated summa cum laude from Plymouth State College. While attending Georgetown University Law Center, he became Editor of that institution's American Criminal Law Review.

After law school, Mr. Howard began an illustrious period of service in the New Hampshire Attorney General's Office. There he quickly moved through the ranks to head that office's Consumer Protection and Antitrust Division. Upon successful completion of this assignment, he was promoted to Associate Attorney General in charge of the division of Legal Counsel. He eventually became Deputy Attorney General, in essence, the second in command in this office.

Mr. Howard was then nominated and confirmed as U.S. Attorney for the District of New Hampshire. During his tenure in that office, he became Principal Associate Deputy Attorney General at the Justice Department. Here his responsibilities included advising Attorney General Barr and supervising the Department of Justice's Executive Office for Asset Forfeiture.

Mr. Howard then returned to New Hampshire and was appointed that State's attorney general. He wrote and implemented one of the Nation's first effective comprehensive statewide interdisciplinary protocols to combat domestic violence.

Clearly, Mr. Howard is a leader in the areas of fighting for consumers that were the victims of fraud and the rights of abused women.

The people of New Hampshire can be proud of this nominee; Jeffrey Howard has been a servant of New Hampshire's people. President Bush has done right by the people of New Hampshire and of New England with this nomination. Mr. Howard is a good example of the kind of high-quality judicial nominees selected by President Bush.

Mr. President, I am proud to say that Jeffrey Howard has my support and I believe he will be an outstanding addition to the first circuit.

Mr. SMITH of New Hampshire. Mr. President, I rise in very strong support of the nomination of Jeffrey Howard to the First Circuit Court. I thank the distinguished chairman of the Judiciary Committee, Senator LEAHY, for bringing this nomination forward promptly, and also Senator HATCH, the ranking member. I spoke to Senator LEAHY a couple of weeks ago, and he promised he would bring this nomination forward, and he did. I am deeply appreciative because Jeff Howard is very qualified for this position and I look forward to him having a long and distinguished career on the First Circuit Court. I am proud to support the nomination. I urge my colleagues to do likewise.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join my colleague, Senator SMITH, in strongly endorsing the nomination of Jeff Howard. I hope my colleagues will vote for him for the First Circuit Court. Jeff Howard has been an extraordinary public servant in New Hampshire. He has served as attorney general, as U.S. attorney. He continues the long tradition of quality individuals who bring integrity, intelligence, and ability to the appeals court in Boston. We are very proud of the fact he will be serving down there upon an affirmative vote from this body.

I yield the floor.

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination of Jeffrey R. Howard to be United States Circuit Judge for the First Circuit.

On this question, the yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 79 Ex.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Helms

The nomination was confirmed.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

AMENDMENTS NOS. 3231, 3232, 3157, 3242, 3244, 3245, 3246, 3247, 3248, 3249, AND 3250

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the pending amendment be set aside and that it be in

order for the Senate to consider en bloc the following amendments:

Amendments Nos. 3231, 3232, 3157, 3242, 3244, 3245, 3246, 3247, 3248, 3249, and 3250.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENTS NOS. 3157 AND 3231, AS MODIFIED

Mr. BINGAMAN. Mr. President, I further ask unanimous consent that amendments No. 3157 and amendment No. 3231 be modified with the changes at the desk.

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

The amendment (No. 3157), as modified, is as follows:

On page 574, between lines 11 and 12, insert the following:

SEC. 17 . REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to the production or use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.

(The amendment (No. 3231), as modified, is printed in today's RECORD under ''Text of Amendments.'')

Mr. BYRD. Mr. President, I am a product of West Virginia. I was pulled from the hard scrabble mountains of Appalachia, and I burn with a passion to serve this nation. I remember my roots. I am proud of them as they have served me well throughout my career in Congress. I recall the words of the legendary President of the United Mine Workers of America, John L. Lewis:

When ye be an anvil,
lie ye very still;
When ye be a hammer,
strike with all thy will.

I believe that we should work diligently on legislation that is beneficial to the American people—on education reform, Campaign Finance Reform, border security, homeland defense, energy security, and a common sense climate change policy. But, surely, we should not allow the White House to hammer us, disregarding what we have introduced, debated, and passed in this Chamber on a number of important policy matters. We must let the democratic process work. It is an open process, and it is the process that the Founders established so long ago to make it possible to consider the people's business.

It was a little over a year ago that the Administration began a comprehensive review of climate change—their alternative approach to the Kyoto Protocol. I understand that any new Administration must examine and develop its own set of policies and ideas on these issues, but they should also understand that so must the Senate. In the absence of any Executive Branch action last year, the Members of the Senate on both sides of the aisle took the lead, putting forward new ideas and approaches to address this climate change challenge.

In June 2001, I introduced bipartisan climate change legislation with Senator STEVENS. Our bill received unanimous support in the Government Affairs Committee in July 2001, and Senators DASCHLE and BINGAMAN then included this bipartisan legislation along with other climate change provisions in the larger energy bill in December 2001. Our proposal is based on scientifically, technically, economically, and environmentally sound principles and would put into place a long-term, comprehensive, national climate change strategy. I believe that this is the right policy framework. The Byrd/Stevens legislation recognizes that what we truly need is to find new ways to begin to solve the climate change problem. Additionally, I believe that such innovation will be key to the long-term viability of coal as an energy resource.

The primary cause of global climate change is due to the increase in greenhouse gases in the atmosphere, especially CO_2 which results from the burning of fossil fuels. To deal with climate change during this century, the world must find better, more efficient, and cleaner ways to burn the very fossil fuels, including coal, that power virtually the entire economy. Addressing climate change is one of the greatest challenges facing the world in this century, and it will require the development of advanced energy technologies, ideas, and responses far beyond today's endeavors. Therefore, the U.S. must set in place a framework with a comprehensive strategy and structure to better address this global challenge.

The Byrd/Stevens legislation calls for the development of a national strategy to coordinate the Federal Government's response to climate change and to examine how the U.S. and other nations can stabilize greenhouse gas concentrations over the long term. The strategy is built upon a foundation of four key elements, including technology development, scientific research, climate adaptation research, and mitigation measures to deal with climate change in an economically and environmentally sound manner.

Byrd/Stevens recognizes that the large number of Federal agencies are engaged in climate change-related activities, often resulting in a hodgepodge of ad hoc approaches. Our legislation calls for the creation of a new, statutory office in the Executive Office of the President to serve as a focal point of accountability and to integrate the work of these Federal agencies while enhancing congressional oversight.

Byrd/Stevens also fills a critical technology gap with a long-term research and development program through the creation of a new office at the Department of Energy which will focus on the innovative technologies necessary to move beyond the current, incremental steps being taken to address climate change today and authorizes $4.75 billion over ten years for such programs. We must develop the critical, innovative energy technologies that will help reduce emissions, while simultaneously preserving a diversity of energy options to support our growing economy.

Additionally, Byrd/Stevens understands that enhancing international research and development efforts as well as opening markets and exporting a range of clean energy technologies globally will be key to addressing the long-term climate change challenge. Finally, while it is critical to put in place the framework to address this long-term, multifaceted issue, it should be noted that the Byrd/Stevens legislation does not purposely include a mandatory or regulatory regime for emission reductions.

Senator STEVENS and I want to work in a bipartisan way to thread this needle—to find a way to establish a balanced, long-term framework so that the U.S. can better address the climate change challenge in a more comprehensive way. Climate change policy is no more and no less than cumulatively addressing good economic, energy, environmental, transportation, agriculture, forestry, and other relevant policy measures. At no time, was it our intent to presuppose or dictate any specific policy outcomes to the Executive Branch or the public at large. Rather, the Byrd/Stevens legislation incorporated the views of many Members and was built upon the experiences from past Administration's efforts in order to create a stronger, more stable foundation that would span this and many Administrations to come.

In summary, I believe that, by working in a bipartisan way in the Senate, we have refined the Byrd/Stevens legislation without undermining its core principles. I hope to work with the White House and other Members of Congress in the energy conference on this and other energy-related provisions. I look forward to the eventual inclusion of Byrd/Stevens in a comprehensive energy plan that can ultimately pass the Congress and be signed by the President. Finally, I ask unanimous consent that my full statement before the Senate Government Affairs Committee on July 18, 2001, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY U.S. SENATOR ROBERT C. BYRD: ''MEETING THE CHALLENGE OF CLIMATE CHANGE''—TESTIMONY BEFORE THE SENATE GOVERNMENT AFFAIRS COMMITTEE, JULY 18, 2001

Mr. Chairman, Senator Thompson, Senator Stevens, and Members of the Committee:

I thank you very much for inviting me to speak on behalf of S. 1008, the Climate Change Strategy and Technology Innovation Act of 2001, and I appreciate your holding this hearing on legislation that I believe incorporates the interests of a wide range of Members.

I have spoken twice in recent months on the Senate floor about the issue of global climate change. My desire to discuss this important issue derives not only from my sense of personal concern but also from my optimistic belief that we can meet the climate

change challenge if we are willing to make a commitment to do so. It is my position that all nations, industrialized and developing countries alike, must begin to honestly address the multifaceted and very complex global climate change problem. At the same time, I believe that our nation is particularly well positioned, with the talent, the wisdom, and the drive, in leading efforts to address the problem that is before us.

For these reasons, I, along with Senator Stevens, introduced the legislation (S. 1008) that is under consideration today. The Byrd/Stevens climate change action plan recognizes the awesome problem posed by climate change, and it puts into place a comprehensive framework, as well as research and development effort to guide U.S. efforts into the future. This insidious diseases that have ravaged the earth. Our nation is a world leader in medical and telecommunications technologies, and we should also be a leader when it comes to revolutionizing our energy technologies. Such a commitment would be important for our economy, our energy security, and the global environment overall. But I must ask how long are we going to wait to develop these technologies. This is a huge opportunity for our nation, but our efforts will only be rewarded if can we make a concerted commitment and dedicate ourselves to the task ahead.

Make no mistake about it, global climate change is a reality. There are some who may have misinterpreted my stance on this issue based on Senate Resolution 98 of July 1997, which I co-authored with Senator HAGEL. That resolution, which was approved by a 95–0 vote, said that the Senate should not give its consent to any future binding international climate change treaty which failed to include two important provisions. That resolution simply stated that developing nations, especially those largest emitters, must also be included in any treaty and that such a treaty must not result in serious harm to the U.S. economy. I still believe that these two provisions are vitally important components of any future climate change treaty, but I do not believe that this resolution should be used as an excuse for the United States to abandon its shared responsibility to help find a solution to the global climate change dilemma.

At the same time, we should not back away from efforts to bring other nations along. The U.S. will never be successful in addressing climate change alone. This is a global problem that requires a global solution. It is critical that nations such as China, India, Mexico, Brazil, and other developing nations adopt a cleaner, more sustainable development path that promotes economic growth while also reducing their pollution and greenhouse gas emissions.

In the Senate's Fiscal Year 2001 Energy and Water appropriations bill, I inserted language that created an interagency task force to promote the deployment of U.S. clean energy technologies abroad. Such an initiative is complementary to the effort proposed in S. 1008. The Clean Energy Technology Exports Initiative is now underway and will help foreign nations deploy a range of clean energy technologies that have been developed in our laboratories. These technologies are hugely marketable. For example, if nations like China continue to depend on coal and other fossil fuels to grow their economies into the future, it is incumbent upon the U.S. to accelerate the development, demonstration, and deployment of clean coal and other clean energy technologies that will be critical to meeting all nations' energy needs while also providing for a cleaner environment.

I believe that S. 1008 maps a responsible and realistic course. That road may be bumpy—and I am sure that there will be disagreements along the way—but it is a journey that we must take.

We owe it to future generations. S. 1008, if adopted and signed by the President, will commit the U.S. to a serious undertaking, but one that should no longer be ignored. If we are to have any hope of solving one of the world's—one of humanity's—greatest challenges, we must begin now.

Mr. MCCAIN. Mr. President, first, I thank the many Senators for their involvement in these discussions on the very complex issue of climate change. I applaud their efforts to reach agreement on these titles.

It is not often that several Committees come together to discuss an issue that cuts across their respective jurisdictions. I think that the agreement that has been reached thus far represents major progress on the road toward addressing the problem of climate change. I, like other Members, have concerns that need further discussion. I think that a dialogue with the House and the Administration will be invaluable as we continue our efforts to finalize a domestic approach to the problem. Therefore, I look forward to working with the various Senators as we continue these discussions on the bill during the conference with the House.

In closing, I would like to note that I have concerns with the newly established Office of Climate Change Technology in Title X of the bill. I hope these concerns can be further addressed as we proceed on the bill. Additionally, I have issues with the loan guarantee provisions of Title XIII. I will speak further on these in a separate statement.

Mr. BINGAMAN. Mr. President, I further ask unanimous consent that the foregoing amendments be agreed to en bloc and the motions to reconsider be laid upon the table.

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

The amendments Nos. 3231, as modified, and 3157, as modified, were agreed to.

The amendments (Nos. 3232, 3242, 3244, 3245, 3246, 3247, 3248, 3249, and 3250) were agreed to, as follows:

AMENDMENT NO. 3232

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 3242

On page 177, line 20, insert after ''information'' the following: ''retrospectively to 1998,''

On page 177, line 25, strike ''consumed'' and insert ''blended''.

On page 187, line 2, strike ''commodities and''.

On page 188, line 20, strike ''distributors''.

On page 191, line 6, strike ''refiners'' and insert ''refineries''.

On page 191, line 17, strike ''distributes''.

On page 198, strike line 24 and all that follows through page 199, line 21.

On page 204, line 3, strike ''importer, or distributor'' and insert ''or importer''.

On page 205, line 5, strike ''(2) EFFECTIVE DATE.—This section'' and insert the following:

''(2) EXCEPTIONS.—This subsection shall not apply to ethers.

''(3) EFFECTIVE DATE.—This subsection''.

On page 222, line 23, strike ''(B)'' and insert ''(C)''.

On page 233, line 18, strike ''(k)'' and insert ''paragraph''.

AMENDMENT NO. 3244

On page 3, line 4, strike ''ELECTRICAL'' and insert ''ENERGY''.

On page 3, line 5, strike ''electrical'' and insert ''energy''.

On page 5, line 4, strike ''electrical'' and insert ''energy''.

On page 5, lines 12–13, strike ''standard established by a'' and insert ''applicable''.

On page 5, lines 13–14, strike ''standard described in'' and insert ''low emissions vehicle standards established under authority of''.

On page 6, line 5, strike ''electrical'' and insert ''energy''.

AMENDMENT NO. 3245

(Purpose: To clarify the definition of ''tribal lands'')

On page 101, strike line 24 and all that follows through page 102, line 2 and insert the following:

''(6) TRIBAL LANDS.—The term 'tribal lands' means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe's reservation.''.

AMENDMENT NO. 3246

(Purpose: To clarify the definition of ''Indian land'')

On page 93, lines 8 through 9, strike ''on the date of enactment of this section was'' and insert ''is''.

AMENDMENT NO. 3247

(Purpose: To preserve oil and gas resource data)

Add at the end of title VI the following:

''SEC. 612. PRESERVATION OF OIL AND GAS RESOURCE DATA.

''The Secretary of the Interior, through the United States Geological Survey, may enter into appropriate arrangements with State agencies that conduct geological survey activities to collect, archive, and provide public access to data and study results regarding oil and natural gas resources. The Secretary may accept private contributions of property and services for purposes of this section.''.

AMENDMENT NO. 3248

(Purpose: To facilitate resolution of conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana)

Add at the end of title VI the following:

''SEC 611. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

''The Secretary of the Interior shall undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana. Not later than 90 days from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts.''

AMENDMENT NO. 3249

(Purpose: To facilitate timely action on oil and gas leases and applications for permits to drill and inspection and enforcement of oil and gas activities)

On page 126, strike line 2 and all that follows through line 14 and insert the following: ''the States; and

''(3) improve the collection, storage, and retrieval of information related to such leasing activities.

''(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior.

''(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

''(2) $20,000,000 for the purpose of carrying out subsection (b).''.

AMENDMENT NO. 3250

(Purpose: To clarify the application of section 927 to certain air conditioners)

On page 294, after line 18, insert the following and renumber the subsequent paragraph:

''(6) Air conditioners and heat pumps that—

''(A) are small duct,

''(B) are high velocity, and

''(C) have external static pressure several times that of conventional air conditioners or heat pumps—

shall not be subject to paragraphs (1) through (4), but shall be subject to standards prescribed by the Secretary in accordance with subsections (o) and (p). The Secretary shall prescribe such standards by January 1, 2004.''.

VITIATION OF ADOPTION OF AMENDMENT NO. 3061

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate vitiate the adoption of amendment No. 3061, adopted on March 21, and that the text of amendment No. 2917 stricken by amendment No. 3061 be reinstated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3008, AS AMENDED, AND AMENDMENT NO. 3145, AS MODIFIED, TO AMENDMENT NO. 3008

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the Senate now consider amendment No. 3008; that amendment No. 3145 to amendment No. 3008 be modified by the changes at the desk; that amendment No. 3145, as modified, be agreed to; that amendment No. 3008, as amended, be agreed to, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3145), as modified, was agreed to, as follows:

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

SEC. 8 . FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—the head of each Federal agency shall ensure that in areas in which ethanol-blended gasoline is reasonably available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than non-ethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in paragraphs (A) and (B) is available at a generally competitive price—

''(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel rather than nonbiodiesel-blended diesel fuel.

''(3) the provisions of this subsection shall not be considered at requirement of Federal law for the purposes of section 312.

''(c) EXEMPTION.—This section does not apply to fuel used in vehicles excluded from the definition of ''fleet'' by subparagraphs (A) through (H) of section 301 (9).''.

The amendment (No. 3008), as amended, was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from New Mexico mentioned that all these amendments have been cleared on the other side.

AMENDMENT NO. 3115, WITHDRAWN

Mrs. FEINSTEIN. Mr. President, I withdraw amendment No. 3115.

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

AMENDMENT NO. 3225 TO AMENDMENT NO. 2917

(Purpose: To modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004)

Mrs. FEINSTEIN. Mr. President, I call up, for the purposes of setting them aside, two amendments. The first one is amendment No. 3225, and I ask the clerk to report the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3225.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mrs. FEINSTEIN. Mr. President, all this amendment would do is provide 1 additional year to prepare for the mandate. That would change one date, changing this mandate from 2004 to 2005. And I ask unanimous consent the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is set aside.

AMENDMENT NO. 3170 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 3170, and I ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3170.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement)

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

''(B) PETITION FOR WAIVERS.—

''(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

''(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

Mrs. FEINSTEIN. Mr. President, this amendment would say that in an emergency, instead of having to wait 240 days for the EPA to respond, either to serious harm to the economy or an inadequate domestic supply or distribution capacity to meet the requirements of the mandate, the EPA would have 90 days to consider that.

I ask unanimous consent this amendment be set aside.

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

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3124 TO AMENDMENT NO. 2917

Mr. FITZGERALD. Mr. President, I ask unanimous consent to set aside the pending amendment to call up amendment No. 3124, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. FITZGERALD], for himself, Mr. CORZINE, Mr. JEFFORDS, and Mr. CHAFEE, proposes an amendment numbered 3124.

Mr. FITZGERALD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the definitions of biomass and renewable energy to exclude municipal solid waste)

On page 81, between lines 2 and 3, insert the following:

SEC. 2 . DEFINITIONS OF BIOMASS AND RENEWABLE ENERGY FOR THE PURPOSES OF THE FEDERAL PURCHASE REQUIREMENT AND THE FEDERAL RENEWABLE PORTFOLIO STANDARD.

(a) FEDERAL PURCHASE REQUIREMENT.—

(1) BIOMASS.—In section 263, the term ''biomass'' does not include municipal solid waste.

(2) RENEWABLE ENERGY.—Notwithstanding anything to the contrary in subsection (a)(2) of section 263, for purposes of that section, the term ''renewable energy'' does not include municipal solid waste.

(b) FEDERAL RENEWABLE PORTFOLIO STANDARD.—

(1) BIOMASS.—Notwithstanding anything to the contrary in subsection (l)(1) of section 606 of the Public Utility Regulatory Policies Act of 1978 (as added by section 265), for the purposes of that section, the term ''biomass'' does not include municipal solid waste.

(2) REWEWABLE ENERGY RESOURCE.—Notwithstanding anything to the contrary in subsection (l)(10) of section 606 of the Public Utility Regulatory Policies Act of 1978 (as added by section 265), for the purposes of that section, the term ''renewable energy resource'' does not include municipal solid waste.

Mr. FITZGERALD. Mr. President, I rise today to offer an amendment that excludes the incineration of municipal solid waste from the definitions of renewable energy and biomass in the energy bill's Federal purchase requirement and renewable portfolio standard. This amendment, which is cosponsored by Senators CORZINE, JEFFORDS, and CHAFEE, closes a loophole in the bill that would encourage the use of municipal solid waste incinerators that emit harmful pollutants into our air. Increased incineration will result in greater pollution which, in turn, will lead to greater health problems for all Americans.

The goal of the renewable portfolio standard and the Federal purchase requirement in the energy bill is to promote a cleaner environment and diversify our Nation's energy sources. My amendment to the Daschle substitute helps to achieve that goal by eliminating the incentive for environmentally hazardous municipal solid waste incinerators. Whatever your thoughts are on the ultimate merits of incineration as a tool of waste management, its inclusion in the energy bill as a clean and renewable energy source is hard to defend.

This amendment does not preclude communities that elect to generate electricity from incinerating their waste from doing so, but, rather, prevents them from receiving special treatment under Federal law. As many of you know, the renewable portfolio standard requires that utilities either produce a percentage of their power from renewable energy sources or that they purchase credits from another party for any shortfall.

Similarly, the Federal purchase requirement in the bill, which I championed during my tenure on the Energy and Natural Resources Committee, requires that a percentage of the power consumed by the Federal Government come from renewable energy sources. Under the existing language now in the Daschle substitute, as amended by Senators BINGAMAN and THOMAS, the incineration of waste would be considered alongside wind and solar as a clean and renewable energy source. I doubt that those in communities with waste incinerators would consider those incinerators as environmentally innocuous as solar and wind energy.

During my years in the Illinois General Assembly, in the Illinois State Senate, I was confronted by a similar scheme to promote incentives for waste incinerators. In 1987, prior to my arrival in the General Assembly, that body approved a tax incentive that encouraged the construction of waste incinerators to generate electricity.

This subsidy to the waste incineration industry, which amounted to nearly $360 million over 20 years, according to some estimates, led to a proliferation of planned incinerators in mostly poor communities surrounding the city of Chicago. In response to significant public health and environmental concerns raised by these and surrounding communities, I joined several colleagues in repealing this subsidy and preventing the actual construction of many of these incinerators in my home State. I would hope that my colleagues could benefit from the experience that Illinois gained from providing special incentives to waste incinerators.

As many of you already know, municipal solid waste consists of residential and commercial refuge or garbage and is the largest source of waste in industrialized countries. Municipal solid waste is often burned as an alternative to placing the waste in landfills. Municipal solid waste incinerators burn this waste and, in the process, can generate electricity. This process only produces a minimal amount of electricity, while the environmental costs are immense. The incineration of municipal solid waste releases numerous pollutants into the air, including acid gases, toxic heavy metals, dioxins, particulate matter, nitric oxide, hydrogen chloride, and furans, to name but a few. The EPA has found that municipal solid waste incinerators are the No. 1 source of dioxin emissions nationwide and are responsible for nearly 20 percent of the Nation's mercury emissions.

The release of pollutants from municipal solid waste incinerators can lead to a myriad of serious public health problems. The hazardous materials emitted by municipal solid waste incinerators are deposited in fields, streams, woodlands, and other places. Municipal solid waste pollutants are linked to cancer, respiratory ailments, and reproductive problems.

Some contend that incineration can be made clean by removing harmful materials from the waste prior to its incineration or by limiting emissions by using filters and other pollution-control equipment. But regardless of these or other steps taken by municipal solid waste incinerator operators, such as scrubbing technologies, to limit the pollution, incinerators are still not a clean source of energy.

Pollution control efforts are largely ineffective because they fail to contain 100 percent of these emissions. And even when most of the emissions are contained, the resulting ash left over from the incineration process must be disposed of as a hazardous waste. If this hazardous waste is not disposed of properly, the ash can also cause considerable health problems. When fly ash is released into the air, people breathe in the small particles which can then sit in their lungs and lead to a number of the ailments I have already mentioned.

My amendment clarifies that the definition of biomass in the energy bill should not be construed to provide any special incentives to businesses that incinerate municipal solid waste. Eliminating these types of waste from the definition of biomass is consistent with the definition of biomass provided in the tax portion of the energy bill. The tax portion of the energy bill specifically excludes municipal solid waste in its biomass definition. If we choose to include municipal solid waste incinerators in the definition of biomass, we will be advocating for the economic interest of waste incinerator operators at the expense of the health of the American people.

The amendment I am offering seeks to preserve the health of our citizens and to keep our environment clean. Excluding municipal solid waste from the definition of biomass and renewable energy is the environmentally responsible thing to do. It would seem incomprehensible to me to grant municipal solid waste incinerators a special incentive to increase the burning of municipal solid waste that would spoil the environment and put the public's health in jeopardy.

This is a commonsense amendment that separates municipal solid waste incinerators from the other clean and renewable energy sources already included in the Daschle substitute amendment. It is consistent with the tax provisions and the energy bill's overarching goal of providing clean energy and a safe environment for future generations.

I hope you will join me in voting for this amendment to protect our environment and the health of the American people.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, the amendment proposes to eliminate municipal solid waste as a qualifying generator type for the purpose of the renewable portfolio standard. I rise to oppose the amendment.

Specifically, I am opposed to the renewable portfolio standard as a matter of policy because I think the cost to consumers is exorbitant, some $88 billion over the next 20 years. I also am opposed to the pending amendment because consumers are going to pay even more than that. By reducing the types of qualifying generators, that will increase the cost of renewable credits which will be passed on to consumers through, obviously, the only alternative, which is higher electric rates.

I encourage consideration of opposing the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 3234 TO AMENDMENT NO. 2917

Ms. CANTWELL. Mr. President, I send to the desk amendment No. 3234.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself, Mr. DAYTON, Mr. WELLSTONE, Mr. FEINGOLD, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS, proposes an amendment numbered 3234 to Amendment No. 2917.

Ms. CANTWELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Ms. CANTWELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARKIN. I would like to say a word about an amendment to the energy bill that I filed today and about a couple tax provisions on which I have been working. As my colleagues know well, I have long sought to promote hydrogen and fuel cells as clean, efficient energy technologies that also will enable an economy based on domestic renewable energy sources. There are a number of provisions in the energy bill that help move us in this direction. I am pleased that the bill includes the Hydrogen Future Act I introduced in the Senate to reauthorize DOE hydrogen energy programs. The energy tax provisions intended for the bill include strong tax credits for both stationary fuel cells and fuel cell vehicles, as well as for hydrogen and hydrogen fueling appliances.

However, I believe more Federal action is needed to accelerate the commercialization of fuel cell technologies and bring their benefits to our country. In particular, the Federal Government needs to take bolder action to bring about the introduction of fuel cell passenger vehicles and of a hydrogen refueling infrastructure. Thus my amendment would create a federal fuel cell vehicle pilot program. In this program the Department of Energy would work with other federal agencies to identify several Federal fleets that would be suitable for demonstrating fuel cell vehicles under a variety of real-world conditions. DOE would help install the necessary fueling infrastructure at those sites; this infrastructure could also be used for a stationary fuel cell at the same location and be made available to other fuel cell vehicles. DOE would purchase several hundred fuel cell vehicles, and DOE and the companies that make the vehicles would assist the federal fleets to operate and maintain these vehicles in normal service. Data would be collected both to improve the next generation of vehicles and to assist fleet operators in incorporating fuel cell cars, and there would be regular reporting to Congress. The amendment also requires at least a 50 percent cost share from non-federal sources, as in most DOE demonstration programs. The total authorization for the program over six years would be $350 million.

This amendment includes a second provision for a study of the potential of stationary fuel cells in federal buildings. Even before fuel cell vehicles are commercially available, fuel cells have a great potential for providing distributed, highly reliable power for buildings, as well as heat. This study would look at what should be done to incorporate fuel cells into new federal buildings, so that planning for the buildings from the first stages can optimize the use of fuel cells and so that appropriate incentives can be put in place to encourage Federal purchase of stationary fuel cells. Again the Federal Government can become a lead consumer to foster commercialization of fuel cells and to demonstrate their benefits.

We also need to build a hydrogen fueling infrastructure. I am working with the Finance Committee to make two important changes to the excellent alternative fuel provisions that are in their package, in order to make the provisions effective for hydrogen fuel. The first would extend the credit for installation of hydrogen fueling property through 2011. This would simply match the credit for the fuel cell vehicles themselves, and recognizes that it will be several years before commercial fuel cell vehicles are readily available and there is significant demand for hydrogen fuel. The second change would alter the definition of refueling property so that not only storage and dispensing of hydrogen but also production of hydrogen from natural gas and other alternative fuels would be included. This is necessary because unlike natural gas, for example, today you can't just pipe in the hydrogen to a fueling station. You need to make the hydrogen on-site, most likely be reforming natural gas. This amendment would clarify the definition to be sure that such equipment is covered.

Finally, on the tax provisions, I hope to extend the tax credit and the exemption from the excise tax for biodiesel. Biodiesel is a renewable product made from soy beans that can be mixed with diesel roughly like ethanol is mixed with gasoline. Its use would cut our use of diesel and thus our consumption of petroleum, and also cut associated emissions. The tax provisions include a three-year tax credit for biodiesel. While this credit could be very helpful to establishing a strong biodiesel industry, three years is not enough to ensure return on investment in a new biodiesel plant. Both the investors and the creditors need a longer planning horizon to be confident of a stable market for the biodiesel. Thus I hope we will be able to extend this important new incentive in order to maximize its effectiveness.

With these provisions, and many others in the bill and the tax package, I look forward to a bright, clean, domestic, renewable energy future.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

Mr. REED. Mr. President, my colleague, Senator COLLINS, and I would like to engage in a colloquy regarding the Low-Income Home Energy Assistance Program, or LIHEAP.

The Northeast-Midwest Senate Coalition, which I chair with Senator COLLINS, is a bipartisan coalition of Senators from the Northeast, Midwest and Mid-Atlantic dedicated to improving the environmental quality and economic vitality of the region. The Low-Income Home Energy Assistance Program is a vital program to our region. LIHEAP provides home energy assistance to some of our Nation's most vulnerable citizens, including families with children, the elderly, and disabled individuals.

People in our region know that cold weather kills. Mr. President, the facts speak for themselves. According to the Centers for Disease Control, between 1979 and 1998, hypothermia claimed the lives of over 13,000 Americans, twice as many Americans than died due to excessive heat. Residential energy costs in the Northeast and Midwest are more expensive which means that families in the region spend a greater amount of their incomes on home heating. It also requires more energy to heat a home than to cool one. LIHEAP households in our region spend over twice as much to heat their homes in the winter than it costs to cool a home in the south in the summer. According to the Department of Health and Human Services, during the peak winter heating season, energy bills can frequently reach up to 30 percent of a low-income family's income, especially if they live in substandard housing.

This winter, the average temperature in Rhode Island was in the low-30s. Without heat, these temperatures are