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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The guest Chaplain, Rev. Jim Henry, First Baptist Church Orlando, in Orlando, FL, offered the following prayer:

Dear Sovereign Father, we humble ourselves in recognition of Your holiness, majesty, grace, love, and goodness. I come to beseech you in behalf of those who serve You and represent the people of our Republic:

For Ambition to be the yokefellow of humility;

For Behavior worthy to be copied;

For Courage in the face of difficulties;

For Decisions based on eternal principles;

For Encouragement when the walls of loneliness surround them;

For Faith when doubt knocks on the door;

For Gentleness to rule over harshness;

For Hope in the midst of despair;

For Impulsiveness to be counteracted with thoughtfulness;

For Joy in their journey of service;

For Knowledge to grapple with the monumental challenges;

For Light to shatter strongholds of darkness;

For Modesty to be the wardrobe of ego;

For Nobility to be the pathway of choice;

For Objectivity to grace every vote;

For Protection for their families and those dear to their thoughts;

For Quiet times to hear Your whispers to their hearts;

For Richness of character to be the most sought after office;

For Servanthood to be more significant than success;

For Truth to outduel falsehood at every encounter;

For Urgent to be under the thumb of the important;

For Vision to be Your hand in the events of the world;

For Wisdom milked from worship, Your Word, and Your will;

For X-ray perception to see through the scams and schemes;

For Your strength as a teammate in the yoke of weariness;

For Zest to run well and finish strong in the race of life;

In the name of our Lord and Savior Jesus Christ, Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 25, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
Pesident pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. The Senate will shortly conduct two rollcall votes on judicial nominations. Following the votes, the Senate will resume consideration of the energy reform bill. Rollcall votes in relation to the amendments on the bill will occur throughout the day. We expect to complete action on the energy bill sometime, we hope, early this afternoon.

I ask now that prior to beginning the votes, the Senator from Florida, Mr. NELSON, be recognized as if in morning business and that time count against the 30 hours.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Senator from Florida.

WELCOME REVEREND JIM HENRY

Mr. NELSON of Florida. Madam President, it is a privilege for me to call to the attention of the Senate that our guest Chaplain today is from Orlando, FL. He is quite a noteworthy individual, and that is why I had particularly requested of our leadership the opportunity that he might come and be our guest Chaplain. Not only has Jim Henry been the pastor of the largest church in the central Florida area since 1977, but he rose to the rank of the president of the Southern Baptist Convention.

The reason I make note of that is that a schism among church leadership had occurred and they needed a leader of that convention, someone who could be a reconciler, a healer, who could bring people together in the midst of their differences.

We deal with that every day here, but we are dealing in the political world

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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where, as the Good Book says, we should come and reason together, work out our differences, achieve consensus, and try to help govern the Nation in a way that the people would want the Nation governed.

So, too, as many other things, including in the faith-based arena, we find deep schisms and we find a difficulty in people coming together. We have seen that, unfortunately, throughout the history of man. So often religion has been the dividing factor that has called people to war, to hate, and to kill. We see that among a faith that ought to be a unifying case in Northern Ireland. Yet because one group calls themselves Protestant and another Catholic, they have chosen the path of war. We see that now where the United States has so much interest in central Asia as a result of one religion playing off against another, people attacking us because of religion.

In the Scriptures, from the ancient Scriptures in the Old Testament through to the New Testament, we find the true word of the Lord was that He wanted people to love one another, to bring people together, to be reconcilers instead of dividers. I share that little glimpse into history which was taught in the Old Testament. Clearly, the message of Jesus of Nazareth was: Love God, and love others as yourself. That was the sum of all the law that had been handed down.

I share this little religious history lesson as I proudly introduce my friend, Jim Henry. He found himself in a position where he had to be a reconciler, a healer, someone who brought people together in the midst of a storm. I am very honored that our guest Chaplain today has been the Reverend Jim Henry from the First Baptist Church of Orlando.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF PERCY ANDERSON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the vote on Executive Calendar Nos. 776 and 781.

The legislative clerk read the nomination of Percy Anderson, of California, to be United States District Judge for the Central District of California.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Percy Anderson, of California, to be United States District Judge for the Central District of California? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

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

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

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

[Rollcall Vote No. 85 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.

NOMINATION OF JOHN F. WALTER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. The clerk will report the nomination of John F. Walter, of California, to be United States District Judge for the Central District of California.

The senior assistant bill clerk read the nomination of John F. Walter, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of John F. Walter, of California, to be United States District Judge for the Central District of California? The yeas and nays were previously ordered on this nomination. The clerk will call the roll.

The senior assistant bill 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. 86 Ex.]

YEAS—99

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

NOT VOTING—1

Helms

The nomination was confirmed.

STATEMENTS ON THE NOMINATIONS OF PERCY ANDERSON AND JACK WALTER

Mr. LEAHY. Madam President, today, the Senate is voting on the 47th and 48th judicial nominees to be confirmed since last July when the Senate Judiciary Committee reorganized after the shift in the Senate majority. With today's votes on Percy Anderson and Jack Walter to the U.S. District Court for the Central District of California, the Senate will have confirmed its 38th and 39th district court judges in the less than 10 months since I became chairman this past summer. This is addition to the 9 judges confirmed to the Courts of Appeals. So the total number of Federal judges confirmed since the change in Senate majority will now be 48. Moreover, with the confirmations of these nominees, the Senate will have resolved 9 judicial emergencies since we returned to session and helped fill 16 emergency vacancies since I became chairman this past summer. The confirmation of these nominees today demonstrates, again, the speed with which President Bush's nominees are receiving consideration by the Judiciary Committee and the Senate.

Percy Anderson, is a nominee to the U.S. District Court in the District of California. He is filling a judicial emergency vacancy that has been pending for more than 1,360 days. Mr. Anderson was nominated to fill the vacancy left by the elevation of Kim McLane Wardlaw in 1998. I recall that President Clinton nominated Frederic Woocher to fill this judicial emergency vacancy on May 27, 1999. Mr. Woocher was one of those who received a hearing before the Judiciary Committee but was never placed on the agenda to receive a vote. He was one of the lucky judicial nominees who got a hearing, with the support of his home-state Senators, but his nomination was ultimately frustrated by never being considered by the Judiciary Committee. Like Allen Snyder of the District of Columbia, Bonnie

Campbell of Iowa, Clarence Sundram of New York, Anabelle Rodriguez and others, he was never allowed Judiciary Committee consideration and never received a vote. After 19 months, his nomination was returned to President Clinton, without receiving a vote in the Judiciary Committee at the time the Senate adjourned at the end of 2000.

Jack Walter, a well-qualified nominee to the Central District of California with excellent federal court experience, is nominated to fill the vacancy left by the retirement of Judge John G. Davies in 1998. That seat is a judicial emergency vacancy that has been vacant for more than 1,370 days—almost 4 years. I recall that President Clinton nominated Dolly M. Gee to fill this judicial emergency vacancy on May 27, 1999. Her nomination was returned to President Clinton, without any action by the Senate, at the end of 2000. After 19 months, that nomination, which was supported by both home-State Senators was returned to the President without a hearing or any consideration and was one of the scores of nominees on which the Senate did not take action over the 6½ years that preceded the shift in majority.

Federal court vacancies rose from 63 in January 1995 to 110 in July 2001, when the Senate majority shifted back to the Democrats and the Judiciary Committee was reassigned Members for this Congress. For example, the Central District in California currently has six vacancies. Today we are acting to fill two of those vacancies on this important Court. I can certainly understand the interest of Chief Judge Marshall of that District and why she attended the committee hearing on these nominations 2 weeks ago to support these nominees. I say to Chief Judge Marshall, help should be on the way very soon. I commend Senator FEINSTEIN and Senator BOXER for their efforts to get these vacancies filled with qualified nominees.

I recall that in the 6½ years that preceded the shift in Senate extensive delays attended even those nominations that were ultimately successful. That is, in spite of the strong support of the two Senators from California, judicial nominations for the District Court that serves Los Angeles, one of the fastest growing areas in the nation with a staggering caseload, were greated delayed if considered at all. We are trying to change that practice. During the years of a Republican Senate majority nominees such as Judge Virginia Phillips, Judge Christina Snyder, and Judge Margaret Morrow were delayed for months and months.

Virginia Phillips was first nominated back in May 1998 to fill a judicial emergency vacancy on the District Court and was not confirmed until November 1999. Christina Snyder was first nominated to the District Court in May 1996 and was not confirmed until November 1997—542 days after her initial nomination. The case of Judge Margaret Morrow is particularly egregious—she was pending before the Senate for 16 months, had to be reported favorably on two occasions by the Judiciary Committee, was held up by an anonymous hold on the Senate floor calendar over a period of more than 7 months, and was not confirmed until 644 days after the date of her initial nomination.

In contrast, the Democratic-controlled Judiciary Committee is moving expeditiously to fill the judicial emergency vacancies in the Central District of California. Mr. Anderson and Mr. Walter were not nominated until late January this year. They promptly received a hearing on their nominations on April 11, 2002, once the paperwork on their nominations was received and within three weeks of the Committee having received their ABA peer review ratings. Had the Administration not taken action that resulted in delaying the ABA peer reviews, the time might well have been even faster.

Senator HATCH noted at their hearing that both of these nominees were first nominated in the last year of the Administration of President George H.W. Bush and did not have hearings before the end of that Senate session in October 1992. I recall that 66 judges were confirmed during the last year of the Bush administration, which set a record, but I do not know why these nominations were not considered. For anyone to try to assert that these nominations have been pending for over 10 years, however, would be extraordinarily unfair and wrong. They were not confirmed in 1992, and not renominated for 10 years, until January 2002. These nominations were not sent to the Senate until this January and the files were not completed until late March. Indeed, for them to have been pending for 10 years the Republican Senate majority that controlled judicial nominations from January 1995 through July 2001 would be at fault. I would not make that criticism of the Senate Republicans of my predecessor as chairman of the Judiciary Committee.

The confirmation of these nominees today demonstrates our commitment promptly to consider qualified, consensus nominees. Mr. Walter and Mr. Anderson participated in bipartisan selection processes, and they are the first two nominees who have emerged from a bipartisan selection process that Senators FEINSTEIN and BOXER established last year with the administration. Both Mr. Anderson and Mr. Walter received unanimous support from the bipartisan commission and appear to be well-qualified. Both come to the Senate with more than 25 years' experience as trial attorneys. I would like to commend Senators FEINSTEIN and BOXER for their efforts to establish the bipartisan commission which has produced such fine nominees.

The Senate's consideration of these nominations illustrates the effect of the reforms to the process that the Democratic leadership has spearheaded, despite the poor treatment of too many Democratic nominees in the past. There have been no anonymous holds and other obstructionist tactics employed with regard to these nominees even though such tactics were employed with the nominations of Judge Morrow, Judge Snyder, Judge Phillips, Mr. Woocher and Ms. Gee.

As our action today demonstrates, again, we are moving at a fast pace and confirming conservative nominees. Since the change in Senate majority, the Democratic majority has moved to confirm President Bush's nominees at a faster pace than the nominees of prior Presidents. The rate of confirmations in the past 10 months actually exceeds the rates of confirmation in the past three presidencies. It took 15 months for the Senate to confirm 46 judicial nominees for the Clinton administration. We have exceeded that number of confirmations today and in five fewer months. Also, in 1993, President Clinton had a Senate led by his own party, and we are considering Republican President George W. Bush's nominees at a faster pace in the Democratic-led Senate. The pace at the beginning of the Clinton administration amounted to the confirmation of 3.1 judges confirmed per month.

In the first 15 months of the George H.W. Bush administration, only 27 judges were confirmed. The pace at the beginning of the George H.W. Bush administration amounted to 1.8 judges confirmed per month. In President Reagan's first 15 months in office, 54 judges were confirmed. The pace at the beginning of the Reagan administration amounted to 3.6 judges confirmed per month. By comparison, with today's confirmations, in the less than 10 months since the shift to a Democratic majority in the Senate, President Bush's judicial nominees have been confirmed at a rate of 4.8 per month, a faster pace than for any of the last three Presidents.

During the preceding 6½ years in which a Republican majority most recently controlled the pace of judicial confirmations in the Senate, 248 judges were confirmed. Some like to talk about the 377 judges confirmed during the Clinton administration, but forget to mention that more than one-third were confirmed during the first two years of the Clinton administration while the Senate majority was Democratic and Senator BIDEN chaired the Judiciary Committee. The pace of confirmations under a Republican majority was markedly slower, especially in 1996, 1997, 1999, and 2000.

During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year—a pace of consideration and confirmation that we have already exceeded under Democratic leadership in fewer than 10 months, in spite of all of the challenges facing Congress and the Nation during this period and all of the obstacles Republicans have placed in our path. We have confirmed 48 judicial nominees in

less than 10 months. This is almost twice as many confirmations as George W. Bush's father had over a longer period—27 nominees in 15 months—than the period Democrats have been in the Senate majority.

Our Republican critics like to make arguments based on false rather than fair comparisons. They complain that we have not done 24 months of work in the less than 10 months we have been in the majority. That is an unfair complaint. A fair examination of the rate of confirmation shows, however, that Democrats are working harder and faster on judicial nominees, confirming judges at a faster pace than the rates of the past 20 years.

I ask myself how Republicans can justify seeking to hold the Democratic majority in the Senate to a different standard than the one they met themselves during the last 6½ years. There simply is no answer other than partisanship. This double standard is most apparent when Republicans refuse fairly to compare the progress we are making with the period in which they were in the Senate majority with a President of the other party. They do not want to talk about that because we have exceeded the number of judges they confirmed per year.

They would rather unfairly compare the work of the Senate on confirmations in the less than 10 months since the shift in majority to full, 2-year Congresses. I say that it is quite unfair to complain that we have not done 24 months of work on judicial vacancies in the less than 10 months since the Senate reorganized. These double standards asserted by the Republicans are wrong and unfair, but that does not seem to matter to Republicans intent on criticizing and belittling every achievement of the Senate under a Democratic majority.

The Republican critics also refuse to recognize the fact that we are making progress with respect to Court of Appeals vacancies, as well. With this week's vote on Jeffrey Howard to the Court of Appeals for the 1st Circuit, the Senate confirmed its 9th judge to our Federal Courts of Appeals. In less than 10 months since I became Chairman this past summer, the Senate has confirmed 9 judges to the Courts of Appeals and held hearings on two others, with another circuit judge hearing scheduled for tomorrow. This is more circuit judges than were confirmed in all 12 months of 2000, 1999, 1997, and 1996, 4 of the 6 years of Republican control of the Senate during the Clinton administration. It is triple the number of circuit judges confirmed in 1993, when a Democratic Senate majority was working with a President of the same party and received some cooperation from the Clinton administration. It exceeds the number of Court of Appeals judges confirmed by a Republican Senate majority in the first 12 months of the Reagan administration and it equals the number of circuit judges confirmed in the first 12 months of the first Bush administration.

The Republican-controlled majority averaged only seven confirmations to the Courts of Appeals per year. Seven. In the less than 10 months the Democrats have been in the majority, we have already exceeded the annual number of Court of Appeals judges confirmed by our predecessors. In an entire session of the 105th Congress, the Republican majority did not confirm a single judge to fill vacancies on the Courts of Appeals. That year has greatly contributed to the doubling of vacancies on the Courts of Appeals during the time in which the Republican majority controlled the Senate.

The Republican majority assumed control of judicial confirmation in January 1995 and did not allow the Judiciary Committee to be reorganized after the shift in majority last summer until July 10, 2001. During the period in which the Republican majority controlled the Senate and in which they delayed reorganization, the period from January 1995 through July 2001, vacancies on the Courts of Appeals increased from 16 to 33, more than doubling.

When members were finally assigned to the Judiciary Committee on July 10, we began with 33 Court of Appeals vacancies. That is what I inherited. Since the shift in majority last summer, 5 additional vacancies have arisen on the Courts of Appeals around the country. With this week's confirmation of Jeffrey Howard, we have reduced the number of circuit court vacancies to 29. Rather than the 38 vacancies that would exist if we were making no progress, as some have asserted, there now remain 29 vacancies. That is more than keeping up with the attrition on the Circuit Courts.

While the Republican Senate majority increased vacancies on the Courts of Appeals by over 100 percent, it has taken the Democratic majority less than 10 months to reverse that trend, keep up with extraordinary turnover and, in addition, reduce circuit court vacancies by more than 10 percent overall, from 33 down to 29, or 12.1 percent. This is progress. Rather than having the circuit vacancy numbers skyrocketing, as they did overall during the prior 6½ years—more than doubling from 16 to 33—the Democratic-led Senate has reversed that trend. The vacancy rate on the Courts of Appeals is moving in the right direction—down.

Despite claims to the contrary, under Democratic leadership, the Senate is confirming President Bush's Circuit Court nominees more quickly than the nominees of other Presidents were confirmed by Senates, even some with majorities from the President's own party. The number of confirmations to the Circuit Courts has exceeded those who were confirmed over 10-month time frames at the beginning of past administrations. With the confirmation of Jeffrey Howard, 9 Circuit Court nominees will have been confirmed in less than 10 months. This number greatly exceeds the number of Court of Appeals confirmations in the first 10 months of the Reagan administration (three), the first Bush administration (three), and the Clinton administration (two). This is three times the number of Court of Appeals nominees confirmed in the comparable 10-month periods of past administrations. With nine circuit judges confirmed in the less than 10 months since the Senate reorganized under Democratic leadership, we have greatly exceeded the number of circuit judges confirmed at the beginning of prior presidencies. Our achievements also compare quite favorably to the total 46 Court of Appeals nominees confirmed by the Republican majority in the 76 months during which they most recently controlled the Senate. Their inaction led to the number of Courts of Appeals vacancies more than doubling. With a Democratic Senate majority, the number of circuit vacancies is going down.

Overall, in little less than 10 months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations and we will have our 17th hearing this week. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated longstanding vacancies into this year. Vacancies continue to exist on the Courts of Appeals in part because a Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Court of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

Despite the newfound concern from across the aisle about the number of vacancies on the circuit courts, no nominations hearings were held while the Republicans controlled the Senate last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001. Had the Republicans not delayed and obstructed progress on Court of Appeals nominees during the Clinton administration, we would not now have so many vacancies. Had the Republicans even reversed course just this past year and proceeded on the circuit court nominees sent to the Senate in January, the number of circuit court vacancies today could be in the low 20's, given the pace of confirmation of circuit nominees since the shift in majority last summer.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have

been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope to continue to hold hearings and make progress on judicial nominees. In our efforts to address the number of vacancies on the circuit and district courts we inherited from the Republicans, the Committee has focused on consensus nominees for all Senators. In order to respond to what Vice President CHENEY and Senator HATCH now call a vacancy crisis, the Committee has focused on consensus nominees. This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process. It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, and whose decisions would further divide our nation.

The committee continues to try to accommodate Senators from both sides of the aisle. The Court of Appeals nominees included at hearings so far this year have been at the request of Senators GRASSLEY, LOTT, SPECTER, ENZI and SMITH from New Hampshire five Republican Senators who each sought a prompt hearing on a Court of Appeals nominee who was not among those initially sent to the Senate in May 2001. Each of the previous 46 nominees confirmed by the Senate has received the unanimous, bipartisan backing of the committee.

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. Senator HATCH has emphasized that Mr. Anderson and Mr. Walter were nominated by the George H.W. Bush Administration and the current Bush Administration. I do not think that either President Bush thought he was nominating liberals to the bench. I do not think so either. These are two more examples of conservative nominees being strongly supported by Democrats on the Judiciary Committee and throughout the Senate.

Another recent example is the nomination of Jeffrey Howard. Just 2 years ago, he campaigned for the Republican nomination for Governor of New Hampshire and he has been a prominent figure in Republican politics in New Hampshire for many years. 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 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 the many other conservative nominees we have proceeded to consider and confirm.

The nominees being voted on today participated in bipartisan selection processes and appear to be the type of qualified, consensus nominees that the Senate has been confirming expeditiously to help fill vacancies on our Federal courts. I am proud of the tremendous work we have done since the change in the majority and the way the committee and the Senate have considered nominees fairly and promptly.

Mr. HATCH. Madam President, I rise to support the nomination of Percy Anderson to be U.S. District Judge for the Central District of California.

It should be noted that the first President Bush nominated Mr. Anderson to the U.S. District Court for the Central District of California in 1992, but regrettably, the Democratic Senate did not hold a hearing for him. After reviewing Mr. Anderson's distinguished legal career, I can tell you that he is a fine jurist who will add a great deal to the Federal bench in California. Following graduation from UCLA School of Law in 1975, Percy Anderson served as a Directing Attorney and Staff Attorney with San Fernando Valley Neighborhood Legal Services, representing indigent clients in civil matters.

In addition, he helped less experienced lawyers with trial preparation and courtroom presentation in matters before the Superior and Municipal Court in Los Angeles. He then acted as a consultant for the Legal Services Corporation in the District of Columbia, before taking a position as an Assistant U.S. Attorney of the Criminal Division in Los Angeles.

For the next 6 years, he served as First Assistant Division Chief, supervising other attorneys and managing criminal division affairs in the absence of the Division Chief. He joined the Bryan Cave law firm in 1985, specializing in white collar criminal defense and aviation litigation, particularly products liability. In 1996, Mr. Anderson became a partner with the Los Angeles firm of Sonnenschein Nath & Rosenthal. He focuses his practice on trial and appellate litigation in the areas of commercial matters, intellectual property, products liability, false claims, and white collar criminal defense work. Mr. Anderson has home State support and my support. He will make an excellent Federal judge in California.

Mrs. FEINSTEIN. Madam President, it is my pleasure to rise in support of the nominations of Percy Anderson and Jack Walter for the District Court of the Central District of California.

Mr. Anderson and Mr. Walter are the first nominees to come out of California's new bipartisan Judicial Advisory Committee, which Senator BOXER and I established with the cooperation and agreement of the White House. It is testament to the qualifications of both Mr. Anderson and Mr. Percy that each of these nominees was unanimously endorsed by the bipartisan advisory committee. Moreover, the Judiciary Committee unanimously approved their nominations.

The process that led to these nominations is representative of how the system can work, and should work, to produce highly qualified judicial candidates. This process should serve as an example to other states as they too, work with the White House to develop nominating systems. Now, I would like to describe the nominees.

Mr. Anderson, a resident of Inglewood, CA, has spent his entire 25-year legal career practicing law in southern California including a 6-year stint as an Assistant U.S. Attorney and 15 years in private practice. He is currently a partner at the firm of Sonneschein, Nath, and Rosenthal, where he specializes in commercial litigation and criminal defense. Judges and private practitioners in the Los Angeles area consistently praise Mr. Anderson for his legal acumen, high ethical standards, and professionalism.

The other nominee we will vote on this morning is Jack Walter, a resident of Pacific Palisades, CA. Mr. Walter's credentials are equally outstanding. Since 1976, Mr. Walter has practiced criminal and civil litigation in a firm he co-founded, Walter, Firestone & Richter in 1976. Over the years, Mr. Walter has represented over 75 indigent defendants who were charged with crimes in Federal court.

Mr. Walter has also served as a judge pro tempore in the Santa Monica Municipal Court for over 5 years. Mr. Walter has legions of supporters in the legal community, including Customs Commissioner Robert Bonner.

The ABA rated Mr. Walter as ''Well-Qualified,'' its highest rating.

Before concluding, I want to stress to the Senate how urgent it is to fill these vacancies in the Central District of California. With six vacancies, the Central District has one of the most acute shortages of unfilled judgeships of any court in the country. The Administrative Office of the U.S. Courts has designated four of these vacancies as ''judicial emergencies.'' With the nominations of Percy Anderson and Jack Walter, we are taking a much-needed step forward to alleviate the vacancy crisis in the Central District.

In conclusion, I want to thank Senator LEAHY for his expedited review and fair handling of these nominees.

Mr. HATCH. Madam President, I rise to support the nomination of John Walter to be U.S. District Judge for the Central District of California. It should be noted that in 1992 Mr. Walter was nominated to the same position by the first President Bush, but regrettably, he was not given a hearing by the Democratic Senate. Still, as was the case 10 years ago, I have every confidence that John Walter will serve

with distinction on the Federal District Court for the Central District of California. After reviewing Mr. Walter's distinguished legal career, I have no doubt that he will be an asset to the Federal bench.

Mr. Walter's solid experience in private practice and government service deserves attention here. Upon graduation from Loyola University of Los Angeles School of Law in 1969, Mr. Walter joined the Los Angeles, CA, firm of Kindel & Anderson as a civil litigation associate. Mr. Walter later served as an assistant U.S. Attorney in the Criminal Division's Fraud and Special prosecutions Unit, where he prosecuted numerous Federal criminal cases, including the then-largest bank burglary in the United States. He returned to Kindel & Anderson in 1972 and remained there as a civil litigator until 1976. Since that time, Mr. Walter has been a partner at the Los Angeles firm of Walter, Finestone & Richter.

Mr. Walter exemplifies an attorney who gives back to the community. As a member of the Federal Indigent Defense Panel, Mr. Walter has represented more than 75 indigent defendants charged with federal crimes in Federal court and devoted thousands of pro bono hours to these cases. He has served as a judge pro tempore in the Santa Monica Municipal Court and as an arbitrator for the L.A. Superior Court Judicial Arbitration Program. He provides approximately 75 to 100 hours a year in the latter position.

I am very proud of this nominee, and I know he will make a great judge.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917 in the nature of a substitute.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917) to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self-determination of the Inupiat Eskimos, and to promote national security.

Feinstein amendment No. 3225 (to amendment No. 2917) 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.

Feinstein amendment No. 3170 (to amendment No. 2917) to reduce the period of time in which the Administrator may act on a petition by one or more States to waive the renewable fuel content requirement.

Durbin amendment No. 3342 (to amendment No. 2917) to strike the nonbusiness use limitation with respect to the credit for the installation of certain small wind energy systems.

Harkin amendment No. 3195 (to amendment No. 2917) to direct the Secretary of Energy to revise the seasonal energy efficiency ratio standard for central air-conditioners and central air-conditioning heat pumps within 60 days.

Carper amendment No. 3198 (to amendment No. 2917) to decrease the U.S. dependence on imported oil by the year 2015.

Reid (for Bingaman) amendment No. 3359 (to amendment No. 2917) to modify the credit for new energy-efficient homes by treating a manufactured home which meets the energy star standard as a 30-percent home.

Reid (for Boxer) amendment No. 3139 (to amendment No. 2917) to provide for equal liability treatment of vehicle fuels and fuel additives.

Reid (for Boxer) amendment No. 3311 (to amendment No. 3139) to provide for equal liability treatment of vehicle fuels and fuel additives.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3311

Mrs. BOXER. Mr. President, I understand that under the unanimous consent agreement, I am to call up my amendment No. 3311 at this time.

The PRESIDING OFFICER. That amendment is already pending.

Mrs. BOXER. Mr. President, I would like the clerk to read the amendment, and after that I am going to yield briefly, without the time coming off my time, to several colleagues who want to lay down some amendments; also, that I would not lose my right to the floor, as they will make clear when they speak.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

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

''(1) IN GENERAL.—Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.

''(2) EFFECTIVE DATE.—This subsection shall be effective one day after the enactment of this Act.''

Mrs. BOXER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, now I will be happy to yield, with the understanding I will not lose my right to the floor, to several of my colleagues.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, will the Senator from California yield for a unanimous consent request?

Mrs. BOXER. I will be happy to yield.

AMENDMENT NO. 3326 TO AMENDMENT NO. 2917

Mrs. MURRAY. Mr. President, I ask unanimous consent that the pending amendment be set aside and amendment No. 3326 be called up, and that immediately after it is reported, it be laid aside and the Senate resume consideration of Senator BOXER's amendment No. 3311.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself and Ms. CANTWELL, proposes an amendment numbered 3326 to amendment No. 2917.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the 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 specifications for a fuel cell power plant eligible for the extension of the energy tax credit)

In Division H. beginning on page 103, line 19, strike all through page 104, line 7, and insert the following:

''(i) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

''(ii) has an electricity-only generation efficiency greater than 30 percent.

''(B) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(i) 30 percent of the basis of such property, or

''(ii) $500 for each 0.5 kilowatt of capacity of such property.''

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the pending amendment be set aside and amendments Nos. 3370 and 3372 be brought up, and that immediately after they are reported, they be laid aside and the Senate resume consideration of Senator BOXER's amendment No. 3311.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, we have a problem. We are not going to be able to finish this bill. We have a number of Senators in the queue waiting to call up their amendments. I am concerned, and I would like to discuss this matter a little further. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor. Does the Senator object?

Mr. MURKOWSKI. The Senator does object.

The PRESIDING OFFICER. Objection is heard.

The Senator from California.

Mrs. BOXER. Mr. President, I tell my friend, under the UC agreement, I have agreed to yield—and, of course, Senators have the right to object, but I agreed to yield next to Senator CORZINE and then Senator DORGAN, and then I go back to my amendment and we get this done. I wanted to be congenial to my colleagues because they have done that for me in the past.

Mr. KYL. Will the Senator from California yield?

Mr. MURKOWSKI. Reserving the right to object. I have already objected. I had understood Senator BOXER was going to be next, although previous conversation indicated Senator MURRAY was going to be next. We have been going back and forth, and we want to continue going back and forth. Senator KYL is prepared to go.

My concern is we are going to run out of time, and we want to accommodate Senators, but as we put new Senators into the queue, we are going to run into a situation with the finance aspect of this legislation, on which I am sure Senator BAUCUS wants a reasonable amount of time. We are going to have to come up with some solution.

I want to accommodate my friend from Florida. I wonder if he will give us a few moments to try to work this out. If I may propose a unanimous consent request that the Senator from California may speak on her amendment now while we try to work this out.

Mrs. BOXER. Mr. President, we already have a unanimous consent agreement. I think it would be wise of my colleagues just simply not to interrupt and to have a conversation with the Senator from Alaska while I begin.

Mr. MURKOWSKI. I am concerned about the time element involved with each Senator. I understand the Senator from California wants to speak for about an hour.

Mrs. BOXER. No, I do not want to speak for about an hour. I want to argue this, and I have 50 minutes remaining on my time. Other Senators want to speak, if they come. I am not interested in stalling.

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Florida?

Mrs. BOXER. I am delighted to yield to my friend, assuming we go right back to this amendment as we originally intended in our UC agreement; is that correct, that is what will happen under the UC agreement?

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from California was to yield to several Senators without losing her right to the floor.

Mrs. BOXER. Mr. President, I yield to my friend from Florida or my friend from Nevada, whomever.

Mr. REID. Will the Senator yield to me without losing her right to the floor?

Mrs. BOXER. I will be happy to yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It seems what we should do is what the Senator from Alaska suggested. The Senator from California should speak on her amendment, and in the meantime, while she is doing that, we will try to work out some process for these amendments to go forward. We are using a lot of time on the bill that this afternoon will be vitally needed. There are important tax measures, as the Senator from Alaska indicated, that should take a bit of discussion. There are other matters that may not take much time. But the tax matters, in my brief review of them, are fairly complicated.

That is my suggestion: The Senator from California should go ahead and complete her statement and, in the meantime, we will try to work out the way the other amendments can come forward.

Mr. SCHUMER. Will the Senator from California yield?

Mrs. BOXER. I will be happy to yield for a question.

Mr. SCHUMER. I wish to speak on the amendment of the Senator from California. I do not want anything to get in the way of others who wish to speak to that amendment right after her.

Mr. REID. I respond through the Chair to the Senator from New York, that is my suggestion: We get debate done on the Boxer amendment. In the meantime, we have a number of people—Senator CORZINE and Senator KYL are here—there are a number of people, including Senators DORGAN and GRAHAM, who have amendments to offer, and we will try to work our way through those. That is my suggestion.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. MURKOWSKI. I wonder if the Senator will yield for a point.

Mrs. BOXER. Yes.

Mr. MURKOWSKI. What we are really trying to do is proceed without basically having the exposure of Senators yielding to other Senators to offer amendments as opposed to other Senators wanting to speak on behalf of an amendment offered. I think Senator BINGAMAN will agree that is all we are trying to do.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this has been an interesting beginning to my amendment. I am looking forward to getting to it, which I am going to do right now. I want to clarify that the time that was used did not come off my 51 minutes, which is what I said in my UC request when I began: That none of the time would come off the time I have.

The PRESIDING OFFICER. That was not the Chair's understanding. But without objection, it is so ordered.

Mrs. BOXER. I thank the Chair. I did say it, but it may have been lost in the shuffle.

AMENDMENT NO. 3311

Mrs. BOXER. Mr. President, there is an extraordinary thing about the bill we are debating. For the first time in history, makers of a product are being given a waiver of all liability essentially, if something in that product goes wrong in the future. For anyone who cares about consumers and communities, this is a terrible situation because we do not know what is going to happen with ethanol.

Now, I am not in the least bit hostile to ethanol. I think it is an exciting possibility that we can help our farmers and we can have a good additive that cleans the air. I know it opens up an opportunity, for example, for my rice growers that they can make ethanol from rice. So I am not at all hostile. In fact, most of my friends know, in the pro-ethanol caucus, as I call them, that I am the one who led the fight to ban MTBE because it is so damaging to the water supply.

What concerns me is giving the makers of this product carte blanche to walk away if in the future we find out there is a problem.

When I brought this issue up to the ethanol folks in the Senate, they said: Well, Senator, we are mandating ethanol in this bill and, therefore, if the Government is mandating ethanol, then we should give them a waiver from being held accountable if something goes wrong.

That reasoning is faulty and it is not borne out by the way we do business in this country. For example, we mandate that there be seatbelts in all cars, but we do not exempt car companies from being held accountable if they make a defective seatbelt. They are held accountable. We mandated seatbelts, but they are held accountable for the safety of the product.

We mandated that there be airbags in all cars, but we do not exempt car companies from being held accountable if there is a defective airbag.

We mandated that all mammographer machines meet certain safety standards. Even though we had a mandate that they meet certain standards in terms of the radiation that can leak from them, we did not say they cannot be held accountable.

In the 1990 Clean Air Act, we mandated that either MTBE or ethanol be used in gasoline, but neither was let off the hook for any damage they caused.

So the first argument that the Government is mandating this so there should be no liability for the people who make ethanol does not hold up.

The second time I came back and made the argument, I was told: In the bill, the Government will pick up all costs if there is a problem.

So I said, that is interesting. So my wonderful staff went back and read every page of the bill. They could not find anyplace in the bill where the Government picks up the tab. So they spoke to everyone they could and said, well, did we miss something? There is nothing in the bill that says the liability will be shifted from the people who make the product to the Federal Government.

I have scratched my head and said, is there any precedent at all? I thought, maybe the Price-Anderson Act, which by the way I have never supported—the bottom line is it says if there is an accident in a nuclear powerplant, the taxpayers will pick up the tab. But even there the nuclear powerplants have to pay an insurance premium over to the Federal Government so at least they are paying part of the tab if, God forbid, there should be an accident at a nuclear powerplant.

There is no premium being paid by the people who make ethanol. So that is the second place where this myth is exploded. There is nothing in the bill that says the Government will pick up the tab.

There is a third myth. They say we are only providing a safe harbor from one type of lawsuit: defective products. So I went to my lawyerly staff, and I said: They are saying no problem, they are only exempting these companies from a very narrow provision of law.

Well, the defective product argument is the only one that will hold up in court. It is the one that people are using as they seek to get damages for MTBE. So very cleverly, the way this bill is crafted, I assure everyone, by the attorneys for the oil companies—I can assure everyone that—it is crafted in a way so the liability is waived in a way so people can never be held accountable.

Why is this so important? Because if one looks back at what happened with MTBE, they see the argument that did carry weight was the defective product argument.

Why is it important to everyone? Because in the beginning everyone thought MTBE was safe, and now even though the people who want to support this mandate are saying the product is safe, there are studies in the bill to find out if it is really safe. We do not know.

Senator FEINSTEIN, who I see in the Chamber, has gone into this matter in great detail. We do not know what can happen. What we do know is it cleans the air but it makes smog worse. We know that but we really do not know what is going to occur when the components break down.

The city of Santa Monica had to sue because they paid over $200 million to try to clean up the damage from MTBE. We hope they will be able to recover because they sued under this defective product provision.

Myth four: Ethanol is safe; no need to worry about liability. I was not born yesterday, as everyone can tell, and if there is no need to worry about liability then why have the waiver for liability? It does not make sense. Obviously, somebody is worried about it. The oil companies are worried about it, I can say that. One does not give a special exemption from liability—and one does not work to get it in the bill and, by the way, fight for it, because I have tried to get some agreement on it and the oil companies do not want to give an inch on it—if you are 100-percent convinced that it is safe.

As the Washington Post points out in its April 16 editorial, the safe harbor liability protection is ''hardly a sign of confidence in ethanol's environmental merits.'' We cannot have it both ways. One cannot stand up and say this is safe and then fight to protect their product. Consumers should be outraged, and that is why we have every consumer group that I know of supporting this amendment. That is why we have every environmental group that I know of supporting this amendment.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. BOXER. If it comes off the time of the Senator. I have very little time.

Mr. DURBIN. I did not know I had time.

Mrs. BOXER. Yes, the Senator has an hour under cloture. Every Senator does. If the Senator takes it on his time, that is fine.

Mr. DURBIN. I ask unanimous consent that time for the colloquy in which I am about to engage be taken from the appropriate time.

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

Mr. DURBIN. May I say to the Senator from California—and she knows this very well—I come from the heart of ethanol country. I have been supportive of the ethanol program throughout my congressional career. At times I have been chairman of the alcohol fuels caucus in both the House and the Senate. I believe ethanol has been proven over and over again to be a safe fuel. It is simply alcohol. It does not have the carcinogenic and dangerous qualities of MTBE and other chemicals. We have used it successfully in the State of Illinois for years. About a third of our gasoline supply is blended with ethanol and is used safely.

So I say to the Senator from California, speaking only for myself, I accept her challenge. I believe we can establish across the Nation that ethanol is a safe fuel, not only safe for those who would handle it and those who would use it in their cars but safe for our environment.

I see no reason for us to put language in this bill creating any kind of exemption from liability for ethanol or renewables fuels.

The Senator from California has suggested our fuels be held to the same standards as every other fuel in America in terms of public health and safety. I completely endorse that approach. I would like to be shown as a cosponsor to the Senator's amendment.

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

Mr. DURBIN. I yield the floor.

Mrs. BOXER. I thank my friend. Senator DAYTON was here yesterday, from ethanol country, supporting this amendment. I think it takes guts to do it, but the Senator is right.

The people we have been meeting with from the Corn Belt—the producers, the farmers—do not like this. Frankly, they do not like the liability waiver. I believe it is the oil companies that came to the table that were fighting for this.

I am pleased the Senator is a cosponsor. I ask unanimous consent that JOHN KERRY be added as a cosponsor.

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

Mrs. BOXER. We have been hit with several myths. Another myth is ETBE is not included in the safe harbor. We are glad it isn't. ETBE is only one form of ethanol and not the most prominent form. Most ethanol will be exempted and will have this safe harbor.

I state for the record who supports this Boxer-Feinstein-Durbin-Kerry-Schumer amendment: the National Resources Defense Council, the Sierra Club, the U.S. Public Interest Research Group, the League of Conservation Voters, Consumer Federation of America, Consumers Union, the American Lung Association, Earthjustice, Friends of the Earth, Physicians for Social Responsibility, the American Water Works Association, the Association of Metropolitan Water Agencies, the Association of California Water Agencies, and the South Tahoe Public Utility District.

It is true that even the groups that support the ethanol mandate agree with our amendment on liability—for example, the American Lung Association and the Blue Water Network. Even among the supporters of ethanol—such as Senator DURBIN and Senator DAYTON—supporters have no qualms about going forward with this amendment. They realize the double standard is wrong.

When Senator FEINSTEIN began the debate on why California is leery of this mandate, she made several points. One dealt with the issue of price. Again, we were told over and over again, the Department of Energy says, yes, there will be a 9-cent increase per gallon in certain places and 7 elsewhere. That was wrong; it would only be a penny.

Senator FEINSTEIN made the point we have had some bad experiences with collusion in the area of our electricity. If there are only four or five people who make the product, we could have problems.

Yesterday there was a San Francisco Chronicle article: ''Memos show possible ethanol price-fixing.'' I ask unanimous consent this article be printed in the RECORD.

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

[From the San Francisco Chronicle, Apr. 24, 2002]

MEMOS SHOW POSSIBLE ETHANOL PRICE-FIXING

(By Zachary Coile, Chronicle Washington Bureau)

WASHINGTON, Apr. 24.—The Senate backed a plan yesterday to triple the amount of ethanol in gasoline, which opponents argued will lead to more expensive prices at the pumps for Californians.

As lawmakers on both sides of the Capitol debated the ethanol requirement, a Sacramento congressman who opposes the plan revealed possible price manipulation among ethanol producers.

Rep. Doug Ose, the Republican chairman of the energy subcommittee of the House Government Reform Committee, released internal memorandums from ethanol suppliers at a hearing about a proposal to ban MTBE as a gasoline additive and require three times as much ethanol, a corn-based additive. The proposal is part of the energy bill scheduled for a Senate vote tomorrow.

''These memos show a disturbing trend of potential market manipulation by ethanol producers,'' Ose said.

William Kovacic, the general counsel for the Federal Trade Commission and a witness at Ose's hearing, said the full commission could initiate an investigation of the ethanol suppliers.

Kovacic said that he could not tell whether the documents were evidence of possible industry collusion but that the memos were ''not simply provocative, but perhaps alarming as well.''

''Direct communications between rivals that suggest such behavior are a matter of keen concern to the enforcement community,'' Kovacic said, adding that he would alert antitrust investigators at the Justice Department.

A spokesman for the Renewable Fuels Association, the ethanol industry's trade association, said his group had not seen any of the document and could not comment on Ose's allegations.

''I am very suspect of the timing and motivation of this charge,'' Bob Dinneen, the group's president, said in a statement. ''Congressman Ose called today's hearing at the request of the MTBE industry, and no one from the ethanol industry was called to testify. It strikes me as more than a coincidence that Mr. Ose raised this issue at the eleventh-hour on the day the Senate is debating the renewable fuels standard.''

The release of the documents came on a day of often bitter debate that split the Senate along regional lines, pitting Midwestern lawmakers who support the ethanol requirement against senators from California and New York, who strongly oppose it.

The Senate last night defeated, by a 68-to-31 vote, an amendment by Sen. Charles Schumer, D-N.Y., that would have stripped the ethanol requirement from the energy bill.

Earlier in the day, California Sen. Dianne Feinstein temporarily delayed the bill until senators could debate proposals to alter the ethanol requirement.

Feinstein, a Democrat, said the requirement could sharply raise gas prices for California consumers because much of the ethanol will have to be transported by rail from the Midwest, where 98 percent of ethanol plants are located.

In releasing the memos, Ose said the documents appear to show a pattern by ethanol suppliers to discuss what prices they intended to bid for supplies before ethanol auctions took place—with the goal of assuring that suppliers got the prices they wanted.

In one of the memos, an executive at an Orange County ethanol supplier, Western Ethanol Co., wrote to a competitor in Costa Rica on Sept. 29, 2000: ''I expect that the winning bid for the 25 percent volume will be somewhere in the upper $1.30's to low $1.40's. We are prepared to stop bidding should the price drop below $1.38 per gallon.''

In another memo, an executive at another Orange County company, Regent International, wrote to an official at Archer Daniels Midland, the nation's largest ethanol producer, on Nov. 20, 1995, to discuss a proposed deal with a London-based ethanol producer, ED & F Man Alcohols, to jointly bid on fuel from France.

''Therefore (ED & F) Man will be bidding on the 75,000 hl out of France at a price of 5.02,'' the memo read. ''I would suggest that ADM underbid at a price of 4.85. This will serve as a safety net in the event Man's bid is rejected for any reason.''

ADM officials could not be reached for comment. Messages left at the offices of the Orange County companies yesterday afternoon were not returned.

The release of the memos was part of a last-ditch attempt by ethanol opponents to derail the plan to phase out MTBE as a gasoline additive and triple the use of ethanol by 2012.

California and a dozen other states have moved to ban MTBE, which has been implicated in groundwater contamination. Gov. Gray Davis last month delayed the state's MTBE ban by a year, to Jan. 1, 2004; after a report by the California Energy Commission said replacing MTBE with ethanol could cut the state's gas supply by 5 to 10 percent and drive up prices to $2 to $3 a gallon.

Mrs. BOXER. Essentially, it shows Congressman OSE from California got ahold of memos that show, if you are doubtful, they are already talking about how they will get the highest price possible for this product.

I add that because it is important that when we voted on some of the other ethanol issues, everyone said: Don't listen to the people from California.

Now it is time to listen to us. We have been through some troubles in our State because there wasn't transparency; there was manipulation of supply and electricity. We don't want to see that happen to any other State. We don't want to see it happen to gasoline.

When the people who objected to points made by Senator FEINSTEIN and Senator SCHUMER, saying they were wrong, there would be no problem, this article shows possible ethanol price fixing.

This is just the beginning. I don't want to see, in 2 years, communities in trouble because it turned out ethanol was not as safe as they said and we had problems in our communities and there is no way to recuperate from the manufacturers of ethanol.

I diverted into the issue of possible price fixing; I hope people listen. I am not here because I am hostile to ethanol. I would like to see it move a little slower. I want to see the health studies. I am not hostile to using ethanol. We are going to use it in a lot of our gasoline. It may turn out to be the panacea. We don't know. I am saying: Be cautious and do not give anyone a blanket waiver of liability from the one area of the law—defective product—that people may have at their disposal.

I ask my colleague, does she want me to yield for questions?

Mrs. FEINSTEIN. I very much appreciate the Senator from California making that offer. I would like to add to what the Senator has said. I am firmly in support of the Senator's amendment. I ask this question. She made the case about the health and environmental unknowns of ethanol. That was somewhat contested. She is absolutely right.

I ask the Senator if she knew about the EPA blue-ribbon panel on oxygenates which found ''ethanol may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks''?

Mrs. BOXER. I say to my colleague and friend and partner in this effort, we are aware of it. I am glad the issue has been raised. This has been an education for everyone as we looked into the study. The underlying bill does a study on the safety of ethanol, which is an admission that they don't know. Therefore, to have a study in the bill, and yet at the same time, before we have the facts from the study, waive this liability is terrible for consumers and States.

I am happy the Senator asked the question and I continue to yield.

Mrs. FEINSTEIN. I wonder if the Senator from California heard that a report by the State of California entitled ''Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate'' points out there are valid questions about the impact of ethanol on ground and surface water. The report points that there will be a 20-percent increase in public drinking water wells contaminated with benzene if a significant amount of ethanol is used. Of course, benzene is a known carcinogen.

What is interesting in the study, it points out that ethanol causes the components of gasoline to break apart and therefore more easily seep into ground water from leaking tanks. We all know gasoline leaks. It is saying it aids in the release of benzene, a component of gasoline.

I wonder if the junior Senator from California heard of that California report.

Mrs. BOXER. I say to my senior Senator, I have. In addition to the benzene, I make the point there are other dangerous areas—not only benzene but ethyl benzene, toluene, xylene. We believe ethanol may inhibit the breakdown of these toxic materials.

Yes, we have a blue-ribbon panel, the State. That is why I think we are disturbed at the liability waiver.

I say to my friend, it is incredible because everyone said MTBE was wonderful, too.

Now we have more warning about ethanol than we had about MTBE, and they put in a liability waiver.

I am encouraged that Senator DURBIN, for example, and Senator DAYTON—from ethanol country—are with us on this issue. It means a great deal.

Mr. SCHUMER. Will the Senator yield for a question?

Mrs. BOXER. I am happy to yield for a question.

Mr. SCHUMER. I am sorry I could not be here at the beginning of the debate, but I have a couple of questions. Just let me get this straight.

We are banning MTBEs because we know they are harmful—in this bill.

Some of our States have done it already. And we are forcing States that may not use ethanol to buy ethanol, which will raise gas prices and cut the amount that goes into the trust fund. At the same time, we are saying: But, if your soil is polluted—and we have a big problem in New York because on Long Island we have one aquifer, one place where all the drinking water occurs and the MTBEs are sinking in—if your soil is polluted and even if it was done knowingly, that you cannot sue the polluter? Is that what we are saying here?

Mrs. BOXER. Yes, this is exactly what the liability safeguard provision does. I repeat, the corn people to whom we have spoken really do not like this particularly. They are unhappy with it. But the oil companies are pushing for it.

It seems to me, when you hear that Senator DURBIN and Senator DAYTON, from corn-growing places, support us, that is hopeful. But my friend is right. We are banning MTBE because it is harmful. We do not really know the end result of ethanol. And before we even know the end result, we are waiving liability. He is correct.

Mr. SCHUMER. I know the Senator has been a leader and expert in these issues of suits and liability, far more than I have. How often have we done this? How often have we taken some substances that we know are dangerous already, some substances that might be dangerous, and put in a whole safe harbor so you cannot sue no matter what happens? Have we done this for other substances?

Mrs. BOXER. I say to my friend, this is a precedent-setting waiver. Even in the case of the Price-Anderson Act where we waived liability for the nuclear power industry, they must pay a premium into a fund, so they are on the hook for billions of dollars. This has never been done. I say further to my friend, when we talk to some of my ethanol-supporting friends, they say: But the Government is mandating this, so therefore they should waive liability. We mandate seatbelts, but if there is a defective seatbelt, a person can sue; airbags, mammograms—you could go through the list. This is precedent setting, and it is terrible law.

Mr. SCHUMER. If I might ask a question or two more?

So we are saying the Government is mandating it, but we are not putting in any Government backstop?

Mrs. BOXER. We are not.

Mr. SCHUMER. If you are a small community and you have a couple of schools in your community and your ground water is polluted, costing you millions of dollars—and that means the property taxes have to go way up—and you know some oil company or refiner, or whatever, polluted that soil knowingly, and the MTBEs leaked in, you have no recourse against the company and there is no Government backstop as in Price-Anderson, so the local taxpayers would be stuck; is that correct?

Mrs. BOXER. That is correct. As a matter of fact, the first time I raised it, some of my friends from the ethanol areas said there was a Government backstop in the bill. So I went back. We searched the bill, page after page, and could not find it.

We called the people who put together the compromise. As you know, the Senators from California and New York were not in that group when there was a compromise. No one has come up with anything that shows us there is anything in the bill.

The bottom line is that a city such as Santa Monica—and you could pick out your cities—that had a horrible problem with MTBE is currently suing to recover $200 million from the oil companies. If that was not allowed, the consumers, our taxpayers, have to pick up the tab. This is the classic case of, in my view, turning away from ''polluter pays'' and going to ''taxpayer pays.''

If ethanol is so safe, then I would say: Why do they have a study on safety in the bill? Why are they seeking this waiver? And why are they ignoring the two studies my friend from California, Senator FEINSTEIN, is going to have printed in the RECORD, the blue-ribbon committee from EPA, and the State study, that show there is really a problem?

Mr. SCHUMER. Just another question: So when the Senator is saying ''taxpayers pay,'' in this case it is not even the Federal taxpayer—which we do in other areas—it would be the local property taxpayer who would be left holding the bag?

Mrs. BOXER. It will be the biggest unfunded mandate. Not only are they mandating ethanol, and at a very fast pace—and it is very hard for us to be able to accept that much—but they are also saying: Local communities, you are on your own.

Mr. SCHUMER. It seems to me—and I wonder about the Senator's comments as to this—this is like piling on. First you mandate ethanol and raise the gasoline prices in New York, California, and so many other parts of the country. We can dispute how much. We think a modest estimate is 4 cents to 10 cents, depending on the State. Then we cut money from the trust fund, so you are getting a gas tax but not the money to build the roads. And now we are saying pollution—where it is caused by ethanol, we don't know it; but things we know are poisonous and polluting are exempt from any lawsuit at all. It seems to me that is just piling on. I have never seen anything like it.

I ask my friend from California, has she? She has more experience in these areas than do I. Have you seen anything that has such an amalgam? It is almost like an evil brew. They put in all these bad ingredients and sneak them in the bill.

I appreciate very much the leadership of the Senator from California, standing up to this provision. We tried to knock out the whole thing. I was surprised we got as many as 31 votes, given the power of the ethanol lobby. But now we are looking at one piece of it, perhaps one of the most egregious pieces of it, and asking people just to knock out that part.

Mrs. BOXER. I agree.

Mr. SCHUMER. Have you seen anything of such an amalgam this way, that hits you right, hits you left, hits you center?

Mrs. BOXER. It is an amazing situation for those of us on the east coast or the west coast. We know we are outnumbered here. But as my colleague from California has told me many times, we must make the case and the record on this, because I can tell you right now, after living through the crisis we lived through in electricity, where we saw what happens when a supply is manipulated—the story in today's San Francisco Chronicle says:

> These memos show a disturbing trend of potential market manipulation by ethanol producers. . . .

And the ink hasn't dried on this bill as it becomes law.

Did you say a witch's brew? Is that what you said?

Mr. SCHUMER. I can't remember. I think I said an evil brew.

Mrs. BOXER. If you look at the components of ethanol—and we all hope and pray the health studies in the bill come out that it is terrific and there is no problem—just look at what ethanol does to another witch's brew. It may spread blooms of benzene, toluene, ethyl benzene, and xylene because ethanol may inhibit the breakdown of these toxic materials.

Mr. SCHUMER. Just to clarify, what is in the bill doesn't just apply to ethanol and its potential dangers but to some things that we know are dangerous such as MTBEs, such as benzene, and other things. Is that fair to say?

Mrs. BOXER. The safe harbor does not apply to MTBE.

Mr. SCHUMER. It does not? Just to the ethanol?

Mrs. BOXER. It is just ethanol minus ETBE, which as I understand it is about 2 percent—a very small percentage of the ethanol. Those are the only two.

There is another point I want to make to my friend.

I ask unanimous consent to have printed in the RECORD this letter from the Association of California Water Agencies, American Water Works Association, and the Association of Metropolitan Water Agencies.

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

ASSOCIATION OF CALIFORNIA WATER AGENCIES, AMERICAN WATER WORKS ASSOCIATION, ASSOCIATION OF METROPOLITAN WATER AGENCIES,

April 16, 2002.

Re: Energy Policy Act of 2002: MTBE and Ethanol provisions

Hon. TOM DASCHLE,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR DASCHLE: The Association of California Water Agencies (ACWA), American Water Works Association (AWWA) and the Association of Metropolitan Water Agencies (AMWA) strongly support language in the current Energy Policy Act of 2002 to end the use of methyl tertiary butyl ether (MTBE) and expedite states' requests for waivers from the Clean Air Act's oxygenate requirement. The phase-out will protect increasingly scarce water supplies from additional contamination by MTBE, which was blended into gas without regulators' consideration of its impact on groundwater.

Unfortunately, however, the energy bill would also require that states use a new fuel additive, ethanol, in even greater quantities than were required for MTBE. Replacing MTBE with ethanol runs the serious risk of repeating costly environmental mistakes, once again without evidence of the benefits for clean air or the risks to human health. A 1999 study by the University of California concluded that the state could meet its clean air, goals without oxygenated fuel, a point corroborated by the U.S. EPA's Blue Ribbon Panel in July 1999. Putting ethanol in gasoline, at any levels would almost certainly result in higher prices at the pump and new instances of possible water contamination.

The problems don't end there. The ethanol provision features language creating a ''renewable fuels safe harbor'' that gives product liability protection to ethanol marketers. This is especially troubling in view of the real possibility that it will have its own environmental problems.

Members of the above organizations supply safe drinking water to more than 200 million people in North America. We recognize the need for the U.S. to invest in renewable fuel sources, and are cognizant of the benefits they offer. But ethanol doesn't need a federal mandate to help meet U.S. energy needs. Your fellow Senators have spoken at length on this provision creating market volatility and price spikes for the benefit of a few ethanol producing states, and our organizations support efforts by Senators Feinstein and Boxer to amend the bill.

Senator Daschle, water agencies sincerely appreciate the language phasing-out MTBE in S. 517. But the bill's call for renewable fuels must not be pitted against the safety of drinking water. We oppose the ethanol mandate and safe harbor language in the bill, and we urge instead your support for waivers from the Clean Air's outdated oxygenate requirement.

Thank you for your consideration, and please contact our offices if we may provide further information.

Mrs. BOXER. Here is what it says. It is a letter addressed to Senator DASCHLE.

Senator Daschle, water agencies sincerely appreciate the language phasing-out MTBE that is in the bill. But the bill's call for renewable fuels must not be pitted against the safety of drinking water. We oppose the ethanol mandate and safe harbor language in the bill, and we urge instead your support for waivers from the Clean Air Act's outdated oxygenate requirement.

That is of course the larger picture.

But the point is these water agencies have had to deal with the real problems of MTBE. Mr. President, 120 million people are served by these water agencies.

Mrs. FEINSTEIN. Will my colleague yield?

Mrs. BOXER. I am happy to yield.

Mrs. FEINSTEIN. I thank Senator BOXER for her support and leadership on this issue, as Senator SCHUMER said. One of the things that has struck me is the belief that there is no harm from ethanol when in fact studies on this issue have not been done to a great extent.

I would ask the Senator if she has comments about yesterday's hearing on the House side. Yesterday, Professor Gordon Rauser of the University of California commented on the potential harm of ethanol on ground water. This was before a House committee.

He said that research now strongly suggests that the presence of ethanol in gasoline not only delays its degradation of benzene but also lengthens the benzene plumes which run out by between 25 and 100 percent.

I think it is very important that the RECORD shows there is scientific evidence that benzene plumes can go up as much as 100 percent and travel 100 percent more in distance because of ethanol.

That suggests ethanol may not be as safe as its proponents would have you believe.

Mrs. BOXER. Yes. That is exactly the point of the blue-ribbon panel of the EPA. That is exactly what MTBE does as well.

We are dealing with the potential that we could really have problems. No one hopes more than I do that in the end it is all going to be safe; that would be a winner. But we cannot stand here and say that.

If we don't learn from history, we are doomed to repeat it. We went through the electricity crisis. We know what happens when supply is manipulated.

Unfortunately, what my friend said on the floor may become true. Manipulation is already being discussed on what to charge for ethanol.

We lived through the MTBE tragedy. I was one of the leaders; I had the first bill to ban MTBE. In fact, a long time ago we got over 56 votes to ban MTBE.

No one can say I have been reluctant to do that. As I said, I am not hostile to ethanol; I am very open to it, but at the same time we need to know what we are doing here. We need to be careful about the amount we are mandating so it isn't overwhelming but also difficult for people to charge exorbitant rates. We have to be careful that there are not a few suppliers and there is price manipulation. We have to be careful with that. We have to be careful that we have the infrastructure we need to bring in the ethanol. We must be careful so we are not giving a waiver of liability to the oil companies and give them safe harbor so they will not be held responsible, if, in fact, it turns out that this blue-ribbon panel and the scientist who Senator FEINSTEIN quoted proves to be correct.

We already know that ethanol makes the air cleaner, but it makes smog worse. We know these things. What we don't know is the long-range impact of what happens when we use it in the types of quantities in which we want to use it.

Mr. President, how much time do we have on our side?

The PRESIDING OFFICER (Mr. CARPER). Seventeen minutes.

Mr. MURKOWSKI. Mr. President, will the Senator yield for a very short question?

Mrs. BOXER. On your time. I want to reserve my time.

Mr. MURKOWSKI. My question has to do with the terminology ''Big Oil'' and the responsibility for ethanol. The Senator from Alaska understands that Big Oil does not make ethanol.

Mrs. BOXER. We understand that the oil companies are at the table with the ethanol people. They manufacture products. So everyone is at the table with the oil companies.

Mr. MURKOWSKI. I will leave the question out there. It is not my understanding that Big Oil makes ethanol.

Mrs. BOXER. They blend it into the oil. We understand that.

Mr. MURKOWSKI. They blend it because it is mandated.

Mrs. BOXER. Right now it is not mandated. We will wait and see what happens.

But my argument is, if this bill becomes law, I don't want to see the oil companies—the makers of ethanol—get off the hook if there is a problem. It would be unprecedented. It would be the first time in American history that it would happen. And it would be coming at a time when we know that all the environmental and health questions have not been answered.

Before some of my colleagues arrived, I went through all of the myths that I have been told relating to my case. To try to say we are just mandating it, and we must, therefore, waive liability—we don't do that to automobile manufacturers with seatbelts, airbags, or anything else.

That is why I am very proud to have Senator DURBIN's support and Senator DAYTON's support because these Senators come from ethanol States. They understand that if they have this waiver in this bill, it clouds this whole issue. If anyone says to you they have the safest product in the world and they want a liability waiver, what does that mean? It means in their hearts that they are not so sure. Again, anyone who wasn't born yesterday knows that is not a good thing to do.

I reserve the remainder of my time—probably 15 minutes.

The PRESIDING OFFICER. The assistant majority leader.

Mr. REID. Thank you, Mr. President. We would like to schedule a vote in the next hour or so on the amendments of the Senators from California. It is my

understanding that on the Boxer amendment, Senator GRASSLEY wishes to speak for 5 minutes and Senator HAGEL for 10 minutes. I will use a couple of minutes.

We have to move this along. How much longer does the Senator from California wish to speak?

Mrs. BOXER. If I could just close in 5 minutes.

Mr. REID. Mr. President, on this amendment, the Boxer amendment, I ask unanimous consent that I be recognized for 5 minutes to speak in opposition to the amendment, that Senator BOXER close with 5 minutes, that Senator GRASSLEY be recognized for 5 minutes in opposition to the amendment, and that Senator HAGEL be recognized to speak for 10 minutes in opposition to this.

I also ask unanimous consent that, upon completion of debate on the Boxer amendment, sometime prior to 12:30 today, I be recognized to offer a motion to table on behalf of the majority leader.

Mrs. BOXER. Mr. President, reserving the right to object for one moment, I didn't realize the Senator from Nevada was speaking against my amendment. Therefore, because of his eloquence, I ask that I be able to speak for 8 minutes instead of 5 minutes.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. REID. That would be fine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, how much time does the Senator from California need on her very important amendment?

Mrs. FEINSTEIN. One-half hour.

Mr. REID. We will arrange a vote, and I assume a few Members will wish to speak in opposition to the amendment. I don't have the amount of time figured out.

If the Senator from California would agree to 25 minutes, and 15 minutes in opposition——

Mrs. FEINSTEIN. I agree to that.

Mr. REID. Mr. President, I ask unanimous consent that on the Feinstein amendment No. 3225——

Mrs. FEINSTEIN. The 1 year.

Mr. REID. Yes. We would have a vote first on the Boxer amendment and second on the Feinstein amendment at 12:30, with the times I have mentioned. I ask unanimous consent that be the order, and that both votes be on or in relation to the amendments.

The PRESIDING OFFICER. Will the Senator please restate the request with respect to the Feinstein amendment.

Mr. REID. I am sorry, I cannot hear the Chair.

The PRESIDING OFFICER. Will the Senator please restate the debate time with respect to the Feinstein amendment.

Mr. REID. Yes. Senator FEINSTEIN would have 25 minutes to speak on her amendment, and the opposition would have 15 minutes.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. REID. And the vote would occur at 12:30, with no second-degree amendments prior to that time being in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The deputy majority leader.

Mr. REID. Mr. President, the majority leader is in the most important agricultural conference, which supposedly—I have heard this before—is in its waning minutes, and he can't be in the Chamber. He is one of four Democratic conferees. So he has asked me to speak on his behalf relating to the Boxer amendment.

First, Mr. President, the chart I have shows the amount of cases that the Senator from California is talking about. Of all the cases we have in our court system, the defective product liability cases amount to .002 percent. On behalf of the majority leader, I indicate that this is a very small number of cases, and it relates to this bill. It is my understanding that the language in this bill certainly gives the proper opportunity for people to go forward in litigation.

What the amendment of the Senator from California could be construed to be is, in effect, giving strict liability, meaning that you do not have to prove any negligence. The majority leader has indicated that this simply is not fair, that there is no reason to have strict liability in this instance when there are so few cases in our judicial system where strict liability is allowed. So the majority leader has asked me to indicate that this amendment should be opposed by all Senators.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I had the good fortune of listening to the exchange between the junior Senator from California and the senior Senator from New York. The senior Senator from New York is not in the Chamber now. But I would like to point out that there is a lack of understanding of this legislation, particularly as it relates to that exchange they had over whether or not you can sue with regard to MTBE.

For all the pollution we have had from that product, there is nothing in this legislation that is going to restrict any lawsuits in regard to MTBE. So when there was an implication that if we did not adopt the amendment before us, that people who have been harmed would not be able to seek legal redress, that is totally false. It is misleading if anybody says that for MTBE, and damage done from it, there cannot be legal redress.

It is very important we make that clear because the water of California, the water of New York, and other States—there is even a little bit in my State—has been damaged because of this product, MTBE. If you drink MTBE, it will kill you. If you drink ethanol, it will not.

For the future—and this legislation is prospective—if there is any violation of the Clean Water Act, the Clean Air Act, if there is any violation by any product, the Environmental Protection Agency has the power to make that determination. If that determination is made, then there is not a safe harbor under this legislation. So I think, as the distinguished Democratic whip has stated, there is ample opportunity for redress in this legislation.

I also point out another misstatement from the other side: that somehow you are not going to be able to hold big oil companies responsible involving anything to do with ethanol. You do not have to worry about holding them responsible anyway. The big oil companies are not producing ethanol.

Then, I remind the junior Senator from California, as I have said, I think on two other occasions during this debate over the last week, that we were proud of her and willing to work with her on a resolution in 1999 that she authored, to declare MTBE as something that should be outlawed, and that the reason it should be outlawed is the Clean Air Act requirements could be met because the oxygenate requirements of that act could be fulfilled because of the availability of ethanol.

Well, it is the same ethanol in the year 2002 as we were mixing with gasoline in 1999, or for the last 20 years, as far as that is concerned. The Senator from California, at that particular time, was giving accolades to ethanol as a substitute for MTBE.

Then, lastly, since I am a Republican, I might be suspect from the other side of the aisle, but about 6, 7 years ago, Senator HARKIN, my colleague from Iowa, had a hearing on ethanol versus MTBE in relation to its safety, its use, et cetera, and Senator HARKIN gave a demonstration for all of the Senate that was involved in that committee.

He had a small glass of ethanol, and he drank it. You can talk all you want about the dangers of ethanol, but Senator HARKIN is very much alive and well, years after he took that small amount of ethanol. He also had some MTBE there with the skull and crossbones on the can that said how poisonous it was. So I think we need to get the facts straight before this Senate.

Again, the exchange that went on a few minutes ago from the senior Senator from New York to the junior Senator from California was misleading in relation to people not having legal redress in this law against damage from MTBE.

I yield the floor.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

The Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise today to speak in opposition to the

amendment offered by my colleague from California. As the Senators from Iowa and Nevada, who have just preceded me, have stated very clearly, this latest attempt to undermine the energy bill's renewable fuel standard—one of the few provisions of the bill that is truly bipartisan—is not in the best interest of this country's energy needs. And it deserves, as the senior Senator from Iowa has just said, some explanation as to what it does and does not do—this renewable fuel standard amendment, reached by a bipartisan group of Senators, that is in the present energy bill.

It is claimed that it will provide a sweeping liability exemption for damage to public health or the environment resulting from the use of renewable fuels. This is a clear misrepresentation of this section of the energy bill.

A few months ago, Majority Leader DASCHLE reached out to a number of Senators from both sides of the aisle to help craft the renewable fuel provision in the current energy bill that we debate today. The result is a historic agreement which has been endorsed by a majority of Governors, the Bush administration, agricultural organizations, the oil industry, and, yes—and yes—environmental and public health groups.

The talks that produced this bipartisan compromise included representatives from the EPA, the American Lung Association, and the Northeast States for Coordinated Air Use Management, among many others.

I know—and I am sure my colleagues from California and other Senators in this body know—that the majority leader of the Senate has a strong commitment to the environment and to the health of all Americans. I suspect he would not agree to a provision he thought might ultimately harm the public's health or environment. None of us would.

The safe harbor provision in this bill is there for one reason: to protect the public and the environment while at the same time not exposing manufacturers and distributors to frivolous lawsuits for simply complying with a Federal requirement, a Federal requirement that we imposed aimed at improving our air and water quality.

This language in this bill is fair. It is reasonable. It is right.

Yesterday, the Renewable Energy Action Project, REAP, a California-based coalition of environmental groups, public agencies, and renewable energy producers, placed a full-page ad in the Washington Post. The headline in the ad read: ''Renewable fuels mean cleaner air, cleaner water, and less dependence on foreign oil.'' And the ad went on to talk about the health benefits.

The ad strongly supports the renewable fuels standard provision and calls the provision an important environmental victory that will protect America's drinking water and improve our air quality. This coalition also warned readers to remember the facts and not be surprised when they hear inflammatory and misleading information attacking the renewable fuel standard.

We have heard the misleading information. We have heard it clearly. Let's review the facts.

The facts are, this bill has solid safeguards. It requires, the Environmental Protection Agency to conduct studies of the long-term health and environmental effects of renewable fuels. Under this bill, the EPA Administrator has the authority, the jurisdiction, the control to either prohibit or allow the sale of renewable fuels that could adversely affect air or water quality or the public health. There is no safe harbor if the Administrator rules that the law has been broken or laws are violated.

The safe harbor provision is very limited. It applies only to claims that a renewable fuel is ''defective in design or manufacture''—I know some in the legal business find that difficult to accept—and that meets the requirements of the Clean Air Act. This is very important. The Clean Air Act is still the law of the land. All must comply with the law of the land. These requirements include compliance with requests for information about a fuel's public health and environmental effects as well as compliance with any regulations adopted by the EPA. If these requirements are not met, the safe harbor protection does not apply.

This provision does not affect claims based on the wrongful release of a renewable fuel into the environment. Anyone harmed by a release of that kind would retain all the rights to sue, all the rights they now have under current law. If we change or strike the safe harbor provision in this bill, we will unravel the entire bipartisan agreement. We will, in fact, be taking several steps backward because the result will be the continued use of MTBE, which we know has health and environmental consequences. I do not think that is what my colleagues from California or any other colleague wants or intends.

Just let me recap for a moment what the senior Senator from Iowa said about compliance and who is protected, which is very important. There is no safe harbor protection under this amendment, if the EPA Administrator rules that a manufacturer or any entity is not in compliance with the Clean Air Act. The language is very clear. I shall read briefly from that language in the bill:

> If it does not violate a control or prohibition imposed by the administrator under section 211 of the Clean Air Act, as amended by this act, and the manufacturer is in compliance with all requests for information under section 211(b) of the Clean Air Act, as amended by this act, in the event that the safe harbor under this section does not apply, the existence of a design defect or manufacturing defect shall be determined under otherwise applicable law.

This is very clear.

As I summarize, let me point out an article that appeared today in the Washington Post. This article is headlined ''Link Seen Between Cooking, Cancer . . . Frying, Baking Starches Creates A Carcinogen.'' It goes on to say:

> The process of frying and baking starchy foods such as potatoes and bread causes the formation of potentially harmful amounts of a chemical listed as a probable carcinogen. . . .

It goes on.

What much of this is also about is downstream, future technologies. No one can predict what is ahead. We now have a story questioning starchy foods and how we prepare them. I think there is some historical evidence that people have actually been baking bread for centuries and eating potatoes cooked many ways and have done quite well actually.

Let's bring some common sense back to this debate. Let's bring some common sense to what we are trying to do here and apply the law based on common sense.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time remains on the side of the opponents?

The PRESIDING OFFICER. Fifteen minutes in opposition on the Feinstein amendment.

Mrs. BOXER. Mr. President, I have 8 minutes to respond.

The PRESIDING OFFICER. The question was on the time in opposition.

The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, it is fair to reflect on this safe harbor Boxer amendment which will be stricken if the amendment prevails.

The bill, we all know, contains this safe harbor provision regarding the liability of manufacturers and distributors in renewable fuels that are subject to the bill's mandate. The principle is relatively simple: No one should be subjected to tort liability simply for manufacturing or selling a product that was mandated by this Congress. That is what we are talking about, a product mandated by Congress. Maybe Congress should bear the liability.

In any event, it is fair to say the provision is very limited. It applies only to claims that a renewable fuel mandated by the act is defective in design or manufacture, and it applies only so long as the applicable requirements of section 211 of the Clean Air Act have been met. These requirements include both compliance with requests for information about a fuel's public health and environmental effects and compliance with any regulations adopted by the Administrator.

If these requirements are not met, then the safe harbor protection will not be available, and liability will be determined under otherwise applicable law.

This provision does not affect claims based on wrongful release of a renewable fuel in the environment. Anyone harmed by a release of that kind would

retain all rights he or she has under current law.

It also applies only prospectively. So it does not affect any claims that have already been filed as of the effective date.

There is some uncertainty regarding the long-term health and environmental risks associated with renewable fuels. Questions have been asked about ETBE, an ether derivative from ethanol, even ethanol itself. The major strength of the bill is its provisions requiring EPA to conduct studies of those effects.

Those studies show that if additional regulations are necessary, then the Administrator simply has authority under the rulemaking provision. Liability protection under the bill would depend on full compliance with any rules the Administrator may adopt. The balanced approach, which I think it is, will protect the public from any adverse health and environmental impacts from renewable fuels while not exposing manufacturers and distributors to tort lawsuits for complying with the renewable fuels mandated in the bill.

Some have contended that this provision could give polluters sweeping liability for damage to public health or the environment resulting from renewable fuels or their use, in the sense of conventional gasoline. Nothing could be further from the truth.

In the first place, the safe harbor provision doesn't affect claims based on the wrongful release of the renewable fuel into the environment. Those responsible for releases to the environment receive no protection whatsoever, nor should they. Moreover, the safe harbor only applies if the maker or seller of a renewable fuel complies with EPA regulations to protect the public health and environment.

Under this bill, the Administrator has the authority to control, or even prohibit, the sale of renewable fuels that may adversely affect air or water quality or the public health. There is no safe harbor if the Administrator's rules are violated.

In my opinion, the amendment would simply promote litigation and increase our dependence on imported oil, which we have already talked about a great deal in this debate on the energy bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks time?

Mrs. BOXER. Mr. President, understanding is that all time in opposition to my amendment has been used; is that correct?

The PRESIDING OFFICER. Yes. The time in opposition to the Senator's amendment has expired.

The Senator from California has 8 minutes.

Mrs. BOXER. I would like to be told when I have used up 7 minutes of my 8.

Mr. President, it is such a simple point. People try to complicate simple matters around here. If ethanol is so safe, why have the companies involved in its production pressed for the liability exemption in the bill? I have to say, with respect to my friends from ethanol country, if this chart that my friend from Nevada talked about were submitted as an answer to a question in a bar exam, the person would fail the bar exam because they have mixed up the causes from the remedies. You cannot show all of this and say each one of these is a cause. Compensatory damages is a remedy. Punitive damages is a remedy.

The cause of action they are going after here happens to be a very small one, it is true. It is only used in a small number of all civil cases, it is true. But defective product liability is the only cause of action that will hold up in a court of law when you seek to get damages from an additive to gasoline.

How do I know this? Because we have done this with MTBE, and every other cause of action that was recommended was thrown out by the court. The only one left standing was defective product.

So then my friends say: But we are only eliminating defective product, and it is just a little narrow sliver. Again, they don't pay these oil company attorneys $500 an hour to come up with some overarching thing that people will notice. They pay them to come up with a very narrow exemption that they hope will slip through. Thank goodness, people who have read this bill understand the ramifications of this liability waiver, because this could have slipped through.

The fact of the matter is that they have exempted themselves in this so-called ethanol compromise—the compromise where Senator FEINSTEIN wasn't at the table, nor was I, nor were the New York Senators. They compromised it themselves. The oil companies and the ethanol producers came up with this liability waiver.

So it is a simple point. If it is meaningless, why won't they take it out? If it only applies to .002 percent of civil cases, then it is meaningless, so why won't they take it out?

The other question is, I believe, this is precedent setting. We mandate many things. The Senator from Alaska says we are mandating this. We cannot expect these companies to pick up the tab if it is defective. We mandate seatbelts. If there is a defective seatbelt, auto companies are held responsible. We mandate regulations on a lot of products, such as airbags. We mandate that products be safe and that certain rules and regulations be followed in mammography and many other products. Yet if there is a defective product, there is no waiver of liability.

One of my friends who is with the ethanol caucus said: Well, we did it in Y2K, Mr. President; we waived the liability for the computer industry in Y2K. That is a laughable comparison. We gave a waiver of liability for 1 year on the Y2K problem because we knew it would be complicated. That set a precedent for every thousand years—every thousand years. We won't be around for the next one.

But that is not what this is about. You have heard the expression ''solidarity forever.'' This is liability forever—liability from a product on which there are some problems already proven and there are perhaps more problems yet to be known. That is why there is a study in the bill.

I think anyone in this body who cares about consumers, and about health, and about the children, and who cares about the environment, cares about our States and localities that will have to pick up the tab if there is a problem, will vote with us.

I will be happy to yield to my friend for a question.

Mrs. FEINSTEIN. Mr. President, I think what the Senator has said is very important. I hope Members of the Senate will listen because what she pointed out was the central flaw in this safe harbor provision.

As I understand it, what the Senator is pointing out is that the safe harbor provision eliminates the one cause of action anyone has that is able to be successful, and that relates to a defective product. So this bill eliminates any cause of action which is brought around the product being defective.

Let me give an example, if I understand this. If it is shown—as I believe it can be shown—that ethanol breaks down gasoline to allow its component parts to plume into the air, spread into the ground, and then it enables benzene to move faster and longer and harder, no one can sue under a defective product liability cause of action; is that right?

Mrs. BOXER. My colleague is absolutely correct. If I might tell her that, in the Lake Tahoe case against MTBE, the only cause of action the court allowed was the very one they are trying to do away with, as she pointed out, the defective product liability. It was $45 million to clean up the mess at Lake Tahoe, an area of our Nation that my colleague and I, Senators REID, and others have worked so hard to protect. The fact is, they had a horrible problem because of the boats using the gasoline with MTBE, which is now banned on Lake Tahoe. They went to court to try to get the $45 million. We still don't know. The jury did come back, and they found for the good guys, the plaintiffs.

The PRESIDING OFFICER. The Senator has 1 minute.

Mrs. BOXER. The jury ruled in favor of the plaintiffs. It was made under the defective product cause of action. Had they not had that available to them—which is exactly what this bill would do, eliminate that—they would not have had a case; the people of Lake Tahoe would be stuck paying $45 million. This is a small area.

So, in closing, let me say this: I say to my friends here, please, rise above all of this special interest politics and think about what is good for your people. We know what is good for your

people is to make sure they are protected—protected from a product that may cause them and their community harm. If we don't vote for this amendment, I worry and fear for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time? If no one yields time, time will be charged equally.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, would you repeat that statement? What is the status with regard to time?

The PRESIDING OFFICER. If no one uses time, time will be charged equally to both sides. Senator FEINSTEIN has 25 minutes remaining in support of her amendment, and there are 10 minutes in opposition to the Feinstein amendment.

Mr. BINGAMAN. Under the unanimous consent agreement, Senator FEINSTEIN's 25 minutes begins to run at this point?

The PRESIDING OFFICER. That is correct.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, how much time do we have?

The PRESIDING OFFICER. Ten minutes in opposition. Senator FEINSTEIN has 25 minutes, and the time is equally divided in both the support and opposition.

AMENDMENT NO. 3132 WITHDRAWN

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to withdraw amendment No. 3132.

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

AMENDMENT NO. 3225

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 3225, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. FEINSTEIN. Mr. President, the amendment I call up is a very modest amendment to the renewable fuels provision in the Senate energy bill. It will simply delay the implementation of the ethanol mandate for 1 year. That would move it from 2004 to 2005.

The purpose of the amendment is to give States more time to make essential infrastructure refinery and storage improvements. This amendment will provide the Senate with the opportunity to make an essential modification to the current bill since virtually every State outside of the Midwest will have to grapple with how to bring in more ethanol over the next several years.

Although the ethanol industry says they can meet future demand, virtually every expert has told me that delivery interruptions and shortfalls are likely, if not inevitable, and yet we are tied to bring in a specific amount. In 2004, the Nation will be forced to use 2.3 billion gallons of ethanol. There is insufficient transportation infrastructure to ship large amounts of ethanol to the east and west coasts, and a temporary reprieve is essential to develop the infrastructure, especially when the infrastructure demands for ethanol are far more complex for ethanol than for MTBE.

Here is why infrastructure is so important. Moisture causes ethanol to separate from gasoline. So the fuel additive cannot be shipped through traditional gasoline pipelines. Ethanol needs to be transported separately by truck, boat, barge, rail, and then blended into the gasoline at the refinery site after it has arrived.

Yet it will not be so easy to transport ethanol by truck, boat, or rail from the Midwest and blend it once it is transported, unless adequate facilities can be built.

According to the California Energy Commission, the adequacy of logistics to deliver large volumes of ethanol is not consistent. A recent report sponsored by the California Energy Commission predicts there will be future logistical problems since the gasoline supply system is currently constrained with demand exceeding the existing infrastructure capacity.

In fact, inadequate infrastructure recently led the Governor of California to push back the start date of the State's ban on MTBE to 2004 from 2003. California does not have the ethanol infrastructure in place to meet the oxygenate requirement under current law once MTBE is banned. The Governor had little choice because California's predicted gas prices at the pump would double if the MTBE ban went into effect as planned in 2003.

This is due in part to the lack of infrastructure. It is also because once MTBE is removed, California needs 5 to 10 percent more gasoline with ethanol. Here is why.

MTBE helps reduce the amount of gasoline needed to make a gallon. Ethanol, however, does not go as far as MTBE, so it increases the amount of gasoline needed to make a gallon. Once we have phased out MTBE, the difference is estimated by experts to require 5 to 10 percent more gasoline in every gallon of gasoline that is produced with ethanol—5 to 10 percent more.

California's refining capacity is at capacity. It is 98 percent, which is capacity. Therefore, we cannot refine 5 to 10 percent more gasoline under the present refining conditions. Therefore, not only are there going to have to be massive improvements in the ability to bring ethanol into the State, but there have to be massive changes made in the refineries themselves, and this is going to take time. Somehow we are going to have to bring online additional refining capacity to handle the tripling of ethanol that is required over the next 10 years by this bill.

This is one of the reasons, from a California perspective, the ethanol mandate is worse for California than for any other State, and for California it is going to spike the cost of gasoline.

Let there be no doubt, we have troubles even the way things are with gasoline supply. As a matter of fact, gas in California is going up. One of the reasons is refinery outages, the shortage of gasoline. That is a very real problem.

This additional year, from 2004 to 2005, will give all States, and especially the east coast and west coast States, an additional year to solve some of these problems.

Before forcing three times the amount of ethanol we currently produce in our fuel supply, I sincerely urge the Senate to adopt this amendment to allow those States that have problems, of which ours is prime, to be able to develop the terminals, the trucks, and the barges to bring in ethanol and the refinery changes that are going to be necessary to produce more gasoline, as well as to absorb ethanol into the situation.

Let me summarize. In the past days, we have made the following points: That the Senate bill requires 5 billion gallons of ethanol by 2012. The mandate will force California to use 2.68 billion gallons more of ethanol than we need to meet clean air standards.

We have proven, I think, that this is a hidden gas tax of anywhere from 4 to 10 percent, and the infrastructure shortfalls in California will most likely put the gas tax hike above that. We have shown there are transportation and infrastructure problems. We have shown there is a dangerously high market concentration.

We point out Archer Daniels Midland has a 41 percent market share. The Wall Street Journal this morning contains a very interesting article on this very subject entitled ''ADM Used European Wine For Ethanol.'' It shows how recent evidence has been uncovered to suggest that ADM engaged in bid rigging, which is a form of price fixing, with respect to European ethanol brought into the United States.

So giving any company a large concentration of market share can also produce exactly what we went through with Enron. We have shown that ethanol has mixed environmental and health benefits. It does decrease carbon monoxide. However, it increases nitrogen oxide emissions, or NO_x, which will increase smog in my State and in other States.

We have demonstrated there will be less revenue to the highway trust fund because gasoline is taxed at 18.4 cents to provide funds for our roads and bridges, but fuel blended with ethanol is only taxed at 13.1 cents. Therefore, this mandate will create an unbelievable $7 billion shortfall in the highway trust fund, and it will provide every State in the Union less dollars to build roads, bridges, and transportation infrastructure.

We have shown, and Senator BOXER did this eloquently, that the safe harbor provision of the bill prevents legal redress if ethanol and other fuel additives harm the environment, because it

removes the unsafe product liability cause of action. That is the one cause of action that sustained the cases in California brought on MTBE, and this bill removes it for ethanol.

Why is this in there? Because the oil companies wanted liability protection or they would not go along with the deal that was cut. So they were given liability protection and no one can bring an unsafe product cause of action against ethanol.

We have shown that ethanol is not a renewable fuel because some scientists believe it takes 70 percent more energy to make ethanol than it saves using it, and we have shown that the ethanol mandate will largely benefit producers, not farmers.

Producers will get 70 percent of the benefit; farmers, 30 percent according to one report. We have shown what this amounts to is a massive transfer of wealth.

The bottom line is the ethanol provisions of this bill are a very bad deal and that mandating 5 billion gallons of it, a tripling of it, by 2012, which never had a hearing in the Energy Committee, never saw the light of day before the deal was put together in secret and apparently a majority of the Senate is going to support it, we ask one thing, and that is that California and other States that need it, on the east coast and on the west coast especially, be given one more year to increase the refining capacity, to improve the infrastructure, to see that the terminals are in place and that we can, in fact, triple ethanol and have enough gasoline to supply our need.

It is my understanding the junior Senator from California would like to ask a question.

Mrs. BOXER. I do want to ask a question, but first I want to thank my colleague for this very modest amendment. I am stunned that our friends in the ethanol caucus have so far not acceded to it. This is my feeling, and I ask my friend if she agrees with me. As she has so eloquently pointed out, we need to build an infrastructure to receive this ethanol. We have to make sure we know what we are doing and we do not rush this. If we rush this and the Senator's amendment is not adopted, I think it is possible there could be huge hostility toward the use of ethanol, and when the people of our country get upset about taxation without representation—and that is how they are going to feel because, as my friend has pointed out, this is like a tax on gasoline for us—there is no telling what is going to happen in this country in places where they are hit.

If we put that together with this terrible article that ran yesterday, ''Memos Show Possible Ethanol Price-fixing,'' with the legitimate issues of building an infrastructure, together with the fact we do not know the health impacts, if they rush this there could be an explosion of resentment in the country.

There is a 2-year study on the health effects in the bill. Until that is done, until that is analyzed, this could take us into 2005. If we find out, for example, there is a way to mitigate some of the problems, we would have time to fix the infrastructure in a way to contain the problem.

My question to my friend, in addition to thanking her for her leadership on this, is, does she not believe if we are all really on the level and we are being sincere, that this is a friendly amendment to both sides because it would, in fact, give us more time to accommodate for the use of the ethanol, would give us more information on the impacts of the ethanol, and it would allow us to do this in an orderly way without great disruption to the marketplace and at the pumps.

Mrs. FEINSTEIN. I respond to the junior Senator by saying she is absolutely right. She has phrased it in a very kind and gentle way. I am afraid I feel more adamantly about it, because I am 100 percent certain this is a big gas tax increase for our people.

We have the longest commutes in the Nation now with people commuting as much as 2½ hours to get to work from Stockton to the Bay Area. This is going to be a real hardship. Our State is complicated because we do not have the refining capacity to refine the additional gasoline that ethanol is going to require. We talked about this yesterday. I went back and checked the figures, and our state will require 5 to 10 percent additional gasoline once we ban MTBE, but to force ethanol down our throats at the same time is a recipe for disaster.

Therefore, we will not have the refining ability to refine that because our refineries are at capacity.

So the infrastructure need of our State is much greater because it is going to mean additional refining capacity. That is not cheap or easy to produce, because you have to go through zoning, you have to go through local governments, you have to conduct environmental reports, to increase the refining capacity of our refineries.

Additionally, our refineries are old and they break down. We have had two breakdowns of major refineries, as the junior Senator knows, and that spikes the price of gasoline. The Senator is right. All this amendment says is, give us another year. Instead of 2004, make it 2005. Give us and other states a chance to produce our additional refining capacity and to meet the additional infrastructure needs.

The Senator from New York is in the chair. She knows the hardship that New York is going to occasion because of this. It gives New York an additional year to be able to make substantial infrastructure changes.

Neither California nor New York have much by the way of ethanol plants. Everything has to come in from the Midwest. Weather is going to impact it. It has to come in by truck or rail or boat. Then it has to be transported to a refinery and injected into the gasoline.

We are saying: Please, you have the votes out there. You know it will present considerable hardship to some. At least be generous enough to give an extra year to be able to get ready for it.

I thank the Senator for her question, and I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Iowa.

Mr. GRASSLEY. Madam President, obviously, I am against this amendment. The rest of the country is trying to help California get through their oxygenate standards and to get over the business of polluting water with MTBE which their oil companies wanted to use and got a mandate for in the last Clean Air Act.

Somehow, notwithstanding all this help, the Senators from California do not realize how good the agricultural States and even other States are trying to be to California to get through this problem. For example, a lot of farmer cooperatives have helped invest $1.4 billion in small ethanol plants and ethanol expansion in order to provide the product needed to help California to meet the requirements of the Clean Air Act.

We already have the Governor of California sticking it to the farmers—particularly the farmers who have created the small co-ops to produce ethanol—by delaying one year, the MTBE ban that he said 3 years ago would take effect at the end of this year. So now farmers have to wait through 2003 before they get the market created by the MTBE ban. It is putting the investment of these small co-ops in danger.

The Senators from California can talk all they want about helping ADM. ADM will survive. The financial investments of the small co-ops will be harmed.

So now, in addition to the damage the Governor of California has been done by delaying the MTBE ban by 1 year, now the Senators want to delay another year.

The Senators will help ADM and hurt the farmers who have been trying to build the smaller plants so there is more competition in ethanol and also more value-added benefits of ethanol go to the individual family farmer, instead of ADM.

So I make it clear, this 1 more year delay, in addition to the year delay caused by the Governor of California, is doing damage to the people that Senators say they want to help. Senators say they do not want dependence upon ADM, but they will make themselves more dependent on ADM.

And now to clear up something about the mixture of ethanol with gasoline. The senior Senator from California said you bring ethanol to the refinery and it is injected. Let me tell how simple it is to mix ethanol and gasoline together. In the tanker, you put the 10-percent mix of ethanol in the tanker and add the other 90 percent of gasoline. This can be done at the terminal, not at the refinery. You go down the

road and it is splash blended. It is not a technologically complicated process of mixing ethanol with gasoline to create what we call gasohol.

The other thing I think the Senate should be reminded of regarding not having refinery capacity, how long has it been since you built a refinery in California? It has been decades. That is not our problem; that is your problem that you don't have this refinery capacity because of the attitude ''not in my backyard.''

Now, key points regarding this amendment: The bill before the Senate provides for a gradual phase-in of the use of renewable fuels beginning with 2.3 billion gallons in the year 2004 and growing to 5 billion gallons over an additional 8-year-period of time. So there is plenty of time to meet the needs under this legislation.

The gradual phase-in of the renewable fuels standard provides a very orderly transition allowing ethanol capacity and infrastructure modifications to expand to meet market demand.

Nevertheless, we have this delaying tactic before the Senate. It is being presented out of fear of disruptions of supply and price. The facts show there is no need to delay our fuel standard and there is no fear of disruptions. The original agreement implemented the renewable fuels provisions beginning 2003 in an effort to assure all parties that ethanol capacity expansion and infrastructure modifications needed to meet demand would be completed, and we made the renewable portfolio standards delayed by 1 year, until the year 2004.

The U.S. ethanol industry has the capacity to produce 2.3 billion gallons of ethanol per year. Right now we produce 1.8 billion gallons per year. Plants currently under construction will increase capacity to 2.7 billion gallons by the end of this year. Clearly, there is more than enough ethanol capacity to meet the needs of the first year of the program, beginning 2 years from now.

Ethanol producers have expanded capacity to meet demands. In response to State calls for the removal of MTBE from gasoline, America's farmers responded, investing in ethanol plants and adding 1 billion gallons of new capacity in just these 2 years. Delaying the renewable fuels provision will result in significant oversupply in the ethanol market, harming new entrants in the ethanol market. Predominantly, these are farmer-owns facilities, likely resulting in some plant shutdown.

A delay will wreak havoc on the fuel supply markets as ethanol plants shut down as a result of delay. The petroleum industry will lose potential sources of supply necessary to meet renewable fuel requirements the following year when the program begins, disrupting markets and actually raising the potential for price increases to consumers.

By the way, I want to respond to the so-called tax on consumers. There is not any place I have been in my State that you have to pay one penny more for gasoline with ethanol in it. Most times you get it for 2 cents cheaper, sometimes 3 cents cheaper. Most of the time it is priced exactly the same. Don't talk to me about a tax on consumers because ethanol is in gasoline.

Today, oil refineries are operating at near full capacity, leaving no room in the system for unexpected shutdowns, fires, or pipeline disruptions.

Delaying the renewable fuels provision by a year will further constrain domestic supply, leaving consumers vulnerable to price hikes.

Last, I think we also have to remember there is a certain amount of camaraderie around this body that has to be respected. That is that we do have some very basic agreements put together in regard to getting a bipartisan energy bill through this body.

The historic bipartisan compromise on fuels issues in this bill represents a carefully crafted agreement among oil industry, ethanol producers, agricultural groups, environmental and public health interest groups, including the American Lung Association, the Union of Concerned Scientists, and Northeast States for Coordinated Air Use Management, among others.

So let's keep this carefully crafted agreement together so we can get a bill passed and maintain a bipartisan approach to the energy problems of this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, how much time do I have?

The PRESIDING OFFICER. Six minutes.

Mrs. FEINSTEIN. Madam President, I would like to respond to the Senator. I found his comments really quite amazing. On the one hand, he was saying how generous he was being to California; on the other hand, he was saying: Tough, if it spikes your cost of gasoline; tough, if you don't have enough refinery capability, that is your fault. I am for the farmers in the Midwest, and all the rest of you be damned.

I don't appreciate that very much. I will tell you something: When the price of gasoline does spike and people are calling, I will refer them to your office, Senator, and be happy to do so. We are being forced to use something we do not need. It would be one thing if we needed it to meet clean air standards. We are being forced to use 2.68 billion gallons of ethanol we do not need in California to meet clean air standards. I resent that.

I resent that the policy of the United States Senate mandates that we have to use something we do not need that is going to cost us more, that is going to prevent us from getting highway money and transportation money because it is going to cut the highway trust fund by $7 billion.

I resent the fact that I am on the Energy Committee and this bill was not even run by the committee; that there has been no public hearing held on any part of it. I resent that fact.

I resent the fact that you don't care whether my State has the refining capacity or not to meet this in time. We have tried to be nice all during this debate, but I resent the fact that this is a deal cut in secret, when nobody who is affected adversely has a chance to weigh in.

I resent the fact that we have no chance to get experts before a committee, to say what we do and do not know about ethanol.

I resent the fact that everybody says it is just great, when scientists have said it may have real problems attributed to it and we cannot even have a hearing to listen to those problems. I resent that. I do not think it is good public policy. It might be good in a political campaign.

I resent the fact that I had the refiners, the ethanol people and the corn farmers, in my office for 8 months trying to negotiate something that California could live with, and then both Presidential candidates announced their support of ethanol and the corn growers reversed and said: Forget you, we are not going to negotiate with you; now we can get much more. And the ''much more'' has resulted in a tripling of an additive we do not need.

Senator BOXER and I are standing here like two lone sheep trying to make an argument when the deal has already been cut, when we have never been consulted. The Senator from New York, what is she going to do when her gasoline price spikes—because it is going to—because we did not have that opportunity?

I resent that as public policy. I have every right to. I represent 34.5 million people, the fifth-largest economic engine on Earth, and we are being told: It is good for corn farmers, so, you guys, lay down and take it. I am being told: Oh, we have a credit trading system. But the fact of the matter is, if you really read the fine print: Use it or pay for it.

I have a problem with that public policy. And I have every right to stand on this Senate floor and say I have a problem with it, and say I think this is unfair, and say I think it is done in the dark of night, and say I do not think anybody who is really affected by it has been let into that secret, dark room.

Yes, you have all cut your deal, and both coasts are going to suffer because of it.

I talk to Senators who I was surprised were in on the deal. What they told me was: We had to, or they would not let us stop using MTBE. We had to, or they would not let us stop using MTBE. That is the way public policy is made.

It is wrong. I am sorry, it is wrong. We lose today, but guess what, we will watch this thing. We will watch this with the eyes of a hawk. You can be sure we will have more to say about it

because it is bad public policy. To mandate States to use something they don't need, when they can meet clean air standards with reformulated fuel except for a small part of the year, in a certain market—it is wrong. It is bad public policy.

Mrs. BOXER. Will my colleague yield for a question?

Mrs. FEINSTEIN. I will be happy to yield because my adrenaline will then drop and my blood pressure will as well.

Mrs. BOXER. I say to my colleague, she had every right to exhibit the feelings she did, when we are told on the floor: Don't come and tell us about price increases.

Our State has gone through the proverbial nightmare with electricity prices because they were manipulated, because the supply was manipulated, because there was no transparency, because a few companies got together and did it to us. Now we are walking into this situation because of our colleagues who have a special interest in this. I understand it, but don't stand on the floor and say: Don't tell me about price increases.

Your administration, the administration in charge, the Bush administration, has put out a chart. What I want to ask my colleague is this: Didn't Spencer Abraham put out a chart that showed us that this administration believes the price of gasoline in California will go up 9 cents? This is not something we are making up. Is that not a fact?

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. I ask for 30 more seconds so she can respond.

Mr. REID. There is no time.

Mrs. BOXER. May she have 30 seconds to respond to my question, please?

Mr. REID. I object.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Yes. The Senator from Nevada has 2½ minutes. I yield 2 minutes of that to the Senator from Nebraska, Mr. NELSON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, one of the questions raised continuously throughout this debate, and it continues to be a question, is: Will there be enough volume, will there be enough production capacity to handle these requirements? Let me refer to the chart we have here that shows there are 61 plants today, plants that are in operation; 14 are under construction—and they claim 82 percent of capacity is in production. We can do better. Biodiesel is estimated to provide another 100 million gallons of ethanol equivalent.

As you begin to see the capacity and production, you see that we have the additional capacity in excess of the production we have at the present time. So the whole question about whether or not we will have enough production, will there be enough ethanol, I think should be put to bed.

The other point that needs to be made is, will this raise the price of gasoline because of the cost of ethanol? Frankly, by reducing the amount of gasoline used, because of the additive, it will drive down the supply of gasoline, which I think will also, if you will—and the use of ethanol as a part of that—not increase the cost of gasoline but will in fact decrease the cost of gasoline. The evidence really exists that this is what the marketplace has been doing over the last 10 to 20 years in many States across the country.

I can understand the concern that has been raised. But I think we have to deal with the facts. If we are going to deal with concerns, the best way to deal with them is with facts. I think the facts have shown capacity, have shown prices, and haven't gone up. I think we can conclude that there will be enough capacity and that the prices will not go up as has been suggested.

I yield the floor.

Mr. REID. Madam President, I yield the final 30 seconds to the Senator from California.

The PRESIDING OFFICER. The Senator from California is yielded the final 30 seconds.

Mrs. FEINSTEIN. Madam President, once again, this is just a very modest amendment. It delays the implementation of this mandate by 1 year, until 2005. It gives both coasts of the United States the opportunity to do what they need to do to increase refining capacity, to develop the terminals, to develop the truck fleet, and to get ready for what is going to be a massive infusion of a product that can't be shipped by pipe. It has to be shipped by truck or by rail or by barge.

I hope the Senate will allow us this additional year to get ready for this unfortunate mandate.

AMENDMENTS NOS. 3332, 3333, 3370, 3372, 3239, AS MODIFIED, 3146, AS MODIFIED AND FURTHER MODIFIED, 3082, 3355, AND 3335

Mr. REID. Madam President, prior to the vote taking place, there are some housekeeping matters.

I ask unanimous consent the pending amendments be temporarily set aside in order for the following filed amendments to be offered in the order in which they are listed below. I further ask unanimous consent that following the reporting of these amendments they be set aside in the order offered:

Kyl No. 3332; Kyl No. 3333; Graham No. 3370; Graham No. 3372; Brownback No. 3239, as modified; Hagel No. 3146, as modified, with a further modification now at the desk; Baucus No. 3082; Conrad-Smith No. 3355; and Sessions No. 3335.

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

The amendments (Nos. 3332, 3333, 3370, 3372, 3239, as modified, 3146, as further modified, 3082, 3355, and 3335) are as follows:

AMENDMENT NO. 3332

(Purpose: To strike the extension of the credit for producing electricity from wind)

In Division H, on page 4, line 8, strike ''Subparagraphs (A) and'' and insert ''Subparagraph''.

AMENDMENT NO. 3333

(Purpose: To strike the provisions relating to alternative vehicles and fuels incentives)

In Division H, beginning on page 17, line 9, strike all through page 55, line 6.

AMENDMENT NO. 3370

(Purpose: To strike section 2308 of Division H (relating to energy tax incentives))

In Division H, (relating to energy tax incentives), strike section 2308.

AMENDMENT NO. 3372

(Purpose: To limit the effective dates of the provisions of Division H (relating to energy tax incentives))

In Division H, on page 216, after line 21, add the following:

SEC. . LIMITATION ON EFFECTIVE DATES.

Notwithstanding any other provision of this division, no provision of nor any amendment made by this division shall take effect until the date of the enactment of legislation which raises Federal revenues or reduces Federal spending sufficient to offset the Federal budgetary cost of such provisions and amendments for the 10-fiscal year period beginning on October 1, 2002.

AMENDMENT NO. 3239, AS MODIFIED

Strike all after the title heading and insert the following:

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term ''baseline'' means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term ''database'' means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term ''designated agency'' means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(5) DIRECT EMISSIONS.—The term ''direct emissions'' means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term ''entity'' means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term ''facility'' means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) carbon dioxide;
(B) methane;
(C) nitrous oxide;
(D) hydrofluorocarbons;
(E) perfluorocarbons;
(F) sulfur hexafluoride; and
(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—
(i) recommended by the National Academy of Sciences under section 1107(b)(3); and
(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.
(9) INDIRECT EMISSIONS.—The term ''indirect emissions'' means greenhouse gas emissions that—
(A) are a result of the activities of an entity; but
(B)(i) are emitted from a facility owned or controlled by another entity; and
(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.
(10) REGISTRY.—The term ''registry'' means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).
(11) SEQUESTRATION.—
(A) IN GENERAL.—The term ''sequestration'' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.
(B) INCLUSIONS.—The term ''sequestration'' includes—
(i) soil carbon sequestration;
(ii) agricultural and conservation practices;
(iii) reforestation;
(iv) forest preservation;
(v) maintenance of an underground reservoir; and
(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—
(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—
(A) are established as of the date of enactment of this Act under other law;
(B) provide for the collection of data relating to greenhouse gas emissions and effects; and
(C) are necessary for the operation of the database;
(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and
(B) maximize the use of available resources of those departments and agencies; and
(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).
(b) MINIMUM REQUIREMENTS.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the designated agencies:
(1) DEPARTMENT OF ENERGY.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).
(2) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall be primarily responsible for the development of—
(A) measurement standards for the monitoring of emissions; and
(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.
(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—
(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and
(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.
(4) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall be primarily responsible for—
(A) developing measurement techniques for—
(i) soil carbon sequestration; and
(ii) forest preservation and reforestation activities; and
(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.
(c) DRAFT MEMORANDUM OF AGREEMENT.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).
(d) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the ''National Greenhouse Gas Database'', to collect, verify, and analyze information on greenhouse gas emissions by entities.
(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—
(1) an inventory of greenhouse gas emissions; and
(2) a registry of greenhouse gas emission reductions.
(c) COMPREHENSIVE SYSTEM.—
(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.
(2) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—
(A) the comprehensive system described in paragraph (1) is designed to—
(i) maximize completeness, transparency, and accuracy of information reported; and
(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and
(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—
(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;
(ii) to provide for corrections to errors in data submitted to the database;
(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;
(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and
(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.
(3) BASELINE IDENTIFICATION AND PROTECTION.—Through regulations promulgated under paragraph (1), the designated agencies shall develop and implement a system that provides—
(A) for the provision of unique serial numbers to identify the verified emission reductions made by an entity relative to the baseline of the entity;
(B) for the tracking of the reductions associated with the serial numbers; and
(C) that the reductions may be applied, as [determined to be appropriate by any Act of] Congress enacted after the date of enactment of this Act, toward a Federal requirement under such an Act that is imposed on the entity for the purpose of reducing greenhouse gas emissions.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).
(b) REQUIREMENTS.—
(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—
(A) establish a baseline (including all of the entity's greenhouse gas emissions on an entity-wide basis); and
(B) submit the report described in subsection (c)(1).
(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.
(c) REPORTS.—
(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—
(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;
(B) an estimate of the greenhouse gas emissions from fossil fuel combusted by

products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may (along with establishing a baseline and reporting reductions under this section)—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—

(I) project reductions from facilities owned or controlled by the reporting entity in the United States;

(II) transfers of project reductions to and from any other entity;

(III) project reductions and transfers of project reductions outside the United States;

(IV) other indirect emissions that are not required to be reported under paragraph (1); and

(V) product use phase emissions;

(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—

(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

(II) any other Federal or State voluntary greenhouse gas reduction program; and

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

(V) management of cropland, grassland, or grazing land;

(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—

(i) the total greenhouse gas emissions of at least 1 facility owned by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or

(ii)(I) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); and

(II) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(B) ENTITIES ALREADY REPORTING.—

(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.

(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) net of any increases in—

(aa) direct emissions; and

(bb) indirect emissions described in paragraph (1)(C)(ii); or

(ii) actual increases in net sequestration.

(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.

(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;

(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;

(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;

(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and

(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—

(i) to take into account that information; and

(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.

(d) ANNUAL REPORT.—The designated agencies shall jointly publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;

(3) describes the atmospheric concentrations of greenhouse gases; and

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) REQUIREMENTS.—The methods and standards developed under paragraph (1) shall address the need for—

(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—

(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage and shifted use;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(iv) such other factors as the designated agencies determine to be appropriate;

(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) organic soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; and

(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) REVIEW AND REVISION.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) PUBLIC PARTICIPATION.—The Secretary of Commerce shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) AVAILABLE ARRANGEMENTS.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

SEC. 1107. INDEPENDENT REVIEWS.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—

(1) describes the efficacy of the implementation and operation of the database; and

(2) includes any recommendations for improvements to this title and programs carried out under this title—

(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and

(B) to achieve the purposes of this title.

(b) REVIEW OF SCIENTIFIC METHODS.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).

SEC. 1108. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) INCREASED APPLICABILITY OF REQUIREMENTS.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) RESOLUTION OF DISAPPROVAL.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1109. ENFORCEMENT.

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

AMENDMENT NO. 3146, AS FURTHER MODIFIED

(Purpose: To establish a national registry for accurate and reliable reports of greenhouse gas emissions, and to further encourage voluntary reductions in such emissions)

Strike Title XI and insert the following:

TITLE XI—NATIONAL GREENHOUSE GAS REGISTRY

SEC. 1101. SHORT TITLE.

This title may be cited as the ''National Climate Registry Initiative of 2002''.

SEC. 1102. PURPOSE.

The purpose of this title is to establish a new national greenhouse gas registry—

(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects and measures that reduce greenhouse gas emissions;

(2) to encourage such persons and entities to monitor and voluntarily report greenhouse gas emissions, direct or indirect, from their facilities, and to the extent practicable, from other types of sources;

(3) to adopt a procedure and uniform format for such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) to provide verification mechanisms to ensure for participants and the public a high level of confidence in accuracy and verifiability of reports made to the national registry;

(5) to encourage persons and entities, through voluntary agreement with the Secretary, to report annually greenhouse gas emissions from their facilities;

(6) to provide to persons or entities that engage in such voluntary agreements and reduce their emissions transferable credits which, inter alia, shall be available for use by such persons or entities for any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts; and

(7) to provide for the registration, transfer and tracking of the ownership or holding of such credits for purposes of facilitating voluntary trading among persons and entities.

SEC. 1103. DEFINITIONS.

In this title—

(1) ''person'' means an individual, corporation, association, joint venture, cooperative, or partnership;

(2) ''entity'' means a public person, a Federal, interstate, State, or local governmental agency, department, corporation, or other publicly owned organization;

(3) ''facility'' means those buildings, structures, installations, or plants (including units thereof) that are on contiguous or adjacent land, are under common control of the same person or entity and are a source of emissions of greenhouse gases in excess for emission purposes of a threshold as recognized by the guidelines issued under this title;

(4) ''reductions'' means actions, projects or measures taken, whether in the United States or internationally, by a person or entity to reduce, avoid or sequester, directly or indirectly, emissions of one or more greenhouse gases;

(5) ''greenhouse gas'' means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such a black soot) that absorbs solar radiation and influences climate;

(6) ''Secretary'' means the Secretary of Energy;

(7) ''Administrator'' means the Administrator of the Energy Information Administration; and

(8) ''Interagency Task Force'' means the Interagency Task Force established under title X of this Act.

SEC. 1104. ESTABLISHMENT.

(a) IN GENERAL.—Not later than 1 year after the enactment of this title, the President shall, in consultation with the Interagency Task Force, establish a National Greenhouse Gas Registry to be administered by the Secretary through the Administrator in accordance with the applicable provisions of this title, section 205 of the Department of Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101, et seq.).

(b) DESIGNATION.—Upon establishment of the registry and issuance of the guidelines

pursuant to this title, such registry shall thereafter be the depository for the United States of data on greenhouse gas emissions and emissions reductions collected from and reported by persons or entities with facilities or operations in the United States, pursuant to the guidelines issued under this title.

(c) PARTICIPATION.—Any person or entity conducting business or activities in the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and register its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of emissions from facilities and operations within the United States and any domestic or international reduction activities; and

(2) have been verified as accurate by an independent person certified pursuant to guidelines developed pursuant to this title, or other means.

SEC. 1105. IMPLEMENTATION.

(a) GUIDELINES.—Not later than 1 year after the date of establishment of the registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task Force, issue guidelines establishing procedures for the administration of the national registry. Such guidelines shall include—

(1) means and methods for persons or entities to determine, quantify, and report by appropriate and credible means their baseline emissions levels on an annual basis, taking into consideration any reports made by such participants under past Federal programs;

(2) procedures for the use of an independent third-party or other effective verification process for reports on emissions levels and emissions reductions, using the authorities available to the Secretary under this and other provisions of law and taking into account, to the extent possible, costs, risks, the voluntary nature of the registry, and other relevant factors;

(3) a range of reference cases for reporting of project-based reductions in various sectors, and the inclusion of benchmark and default methodologies and practices for use as reference cases for eligible projects;

(4) safeguards to prevent and address reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions or reductions by more than one reporting person or entity and to make corrections and adjustments in data where necessary;

(5) procedures and criteria for the review and registration of ownership or holding of all or part of any reported and independently verified emission reduction projects, actions and measures relative to such reported baseline emissions level;

(6) measures or a process for providing to such persons or entities transferable credits with unique serial numbers for such verified emission reductions; and

(7) accounting provisions needed to allow for changes in registration and transfer of ownership of such credits resulting from a voluntary private transaction between persons or entities, provided that the Secretary is notified of any such transfer within 30 days of the transfer having been effected either by private contract or market mechanism.

(b) CONSIDERATION.—In developing such guidelines, the Secretary shall take into consideration—

(1) the existing guidelines for voluntary emissions reporting issued under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience in applying such guidelines, and any revisions thereof initiated by the Secretary pursuant to direction of the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential uniqueness of the facilities, operations and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry;

(4) issues, such as comparability, that are associated with the reporting of both emissions baselines and reductions from activities and projects; and

(5) the appropriate level or threshold emissions applicable to a facility or activity of a person or entity that may be reasonably and cost effectively identified, measured and reported voluntarily, taking into consideration different types of facilities and activities and the de minimis nature of some emissions and their sources; and

(6) any other consideration the Secretary may deem appropriate.

(c) EXPERTS AND CONSULTANTS.—The Secretary, and any member of the Interagency Task Force, may secure the services of experts and consultants in the private and nonprofit sectors in accordance with the provisions of section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emissions trading. In securing such services, any grant, contract, cooperative agreement, or other arrangement authorized by law and already available to the Secretary or the member of the Interagency Task Force securing such services may be used.

(d) TRANSFERABILITY OF PRIOR REPORTS.—Emission reports and reductions that have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs may be independently verified and registered with the registry using the same guidelines developed by the Secretary pursuant to this section.

(e) PUBLIC COMMENT.—The Secretary shall make such guidelines available in draft form for public notice and opportunity for comments for a period of at least 90 days, and thereafter shall adopt them for use in implementation of the registry established pursuant to this title.

(f) REVIEW AND REVISION.—The Secretary, through the Interagency Task Force, shall periodically thereafter review the guidelines and, as needed, revise them in the same manner as provided for in this section.

SEC. 1106. VOLUNTARY AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this title, any person or entity, and the Secretary, may voluntarily enter into an agreement to provide that—

(1) such person or entity (and successors thereto) shall report annually to the registry on emissions and sources of greenhouse gases from applicable facilities and operations which generate net emissions above any de minimis thresholds specified in the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall commit to report and participate in the registry for a period of at least 5 calendar years, provided that such agreements may be renewed by mutual consent;

(3) for purposes of measuring performance under the agreement, such person or entity (and successors thereto) shall determine, by mutual agreement with the Secretary—

(A) pursuant to the guidelines issued under this title, a baseline emissions level for a representative period preceding the effective date of the agreement; and

(B) emissions reduction goals, taking into consideration the baseline emissions level determined under subparagraph (A) and any relevant economic and operational factors that may affect such baseline emissions level over the duration of the agreement; and

(4) for certified emissions reductions made relative to the baseline emissions level, the Secretary shall provide, at the request of the person or entity, transferable credits (with unique assigned serial numbers) to the person or entity (and successors thereto) which, inter alia,—

(A) can be used by such person or entity towards meeting emissions reductions goals set forth under the agreement;

(B) can be transferred to other persons or entities through a voluntary private transaction between persons or entities; or

(C) may be applicable towards any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts.

(b) PUBLIC NOTICE AND COMMENT.—At least 30 days before any agreement is final, the Secretary shall give notice thereof in the Federal Register and provide an opportunity for public written comment. After reviewing such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it or finalize it without substantive change. Such agreement shall be retained in the national registry and be available to the public.

(c) EMISSIONS IN EXCESS.—In the event that a person or entity fails to certify that emissions from applicable facilities and operations are less than the emissions reduction goals contained in the agreement, such person or entity shall take actions as necessary to reduce such excess emissions, including—

(1) redemption of transferable credits acquired in previous years if owned by the person or entity;

(2) acquisition of transferable credits from other persons or entities participating in the registry through their own agreements; or

(3) the undertaking of additional emissions reductions activities in subsequent years as may be determined by agreement with the Secretary.

(d) NO NEW AUTHORITY.—This section shall not be construed as providing any regulatory or mandate authority regarding reporting of such emissions or reductions.

SEC. 1107. MEASUREMENT AND VERIFICATION.

(a) IN GENERAL.—The Secretary of Commerce, through the National Institute of Standards and Technology and in consultation with the Secretary of Energy, shall develop and propose standards and practices for accurate measurement and verification of greenhouse gas emissions reductions. Such standards and best practices shall address the need for—

(1) standardized measurement and verification practices for reports made by all persons or entities participating in the registry, taking into account—

(A) existing protocols and standards already in use by persons or entities desiring to participate in the registry;

(B) boundary issues such as leakage and shifted utilization;

(C) avoidance of double-counting of greenhouse gas emissions and emissions reductions; and

(D) such other factors as the panel determines to be appropriate;

(2) measurement and verification of actions taken to reduce, avoid or sequester greenhouse gas emissions;

(3) in coordination with the Secretary of Agriculture, measurement of the results of

the use of carbon sequestration and carbon recapture technologies, including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestation activities which adequately address the issues of permanence, leadage, and verification; and

(4) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture and the Secretary of Energy shall determine to be appropriate.

(b) PUBLIC COMMENT.—The Secretary of Commerce shall make such standards and practices available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them, in coordination with the Secretary of Energy, for use in the guidelines for implementation of the registry as issued pursuant to this title.

SEC. 1108. CERTIFIED INDEPENDENT THIRD PARTIES.

(a) CERTIFICATION.—The Secretary of Commerce shall, through the Director of the National Institute of Standards and Technology and the Administer, develop standards for certification of independent persons to act as certified parties to be employed in verifying the accuracy and reliability of reports made under this title, including standards that—

(1) prohibit a certified party from themselves participating in the registry through the ownership or transition of transferable credits recorded in the registry;

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on the amount of emissions reductions; verified; and

(3) authorize such certified parties to enter into agreements with persons engaged in trading of transferable credits recorded in the registry.

(b) LIST OF CERTIFIED PARTIES.—The Secretary shall maintain and make available to persons or entities making reports under this title and to the public upon request a list of such certified parties and their clients making reports under this title.

SEC. 1109. REPORT TO CONGRESS.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, and biennially thereafter, the President, through the Interagency Task Force, shall report to the Congress on the status of the registry established by this title. The report shall include—

(a) an assessment of the level of participation in the registry (both by sector and in terms of total national emissions represented);

(b) effectiveness of voluntary reporting agreements in enhancing participation the registry;

(c) use of the registry for emissions trading and other purposes;

(d) assessment of progress towards individual and national emissions reduction goals; and

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1604 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

SEC. 1110. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this title, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry represents less than 60 percent of the national aggregate greenhouse gas emissions as inventoried in the official U.S. Inventory of Greenhouse Gas Emissions and Sinks published by the Environmental Protection Agency for the previous calendar year.

(b) MANDATORY REPORTING.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of such aggregate greenhouse gas emissions are being reported to the registry—

(1) all persons or entities, regardless of their participation in the registry, shall submit to the Secretary a report that describes, for the preceding calendar year, a complete inventory of greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted by such person or entity, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by such person or entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the Secretary determines by regulation to be practicable and useful for the purposes of this title, such as—

(i) direct emissions from statutory sources;

(ii) indirect emissions from imported electricity, heat, and stream;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases; and

(2) each person or entity shall submit a report described in this section—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes determination under subsection (a); and

(B) annually thereafter.

(c) EXEMPTIONS FROM REPORTING.—

(1) IN GENERAL.—A person or entity shall be required to submit reports under subsection (b) only if, in calendar year after the date of enactment of this title—

(A) the total greenhouse gas emissions of at least 1 facility owned by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation);

(B) the total quantity of greenhouse gas produced, distributed, or imported by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation); or

(C) the person or entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(2) ENTITIES ALREADY REPORTING.—A person or entity that, as of the date of enactment of this title, is required to report carbon dioxide emissions data to a Federal agency shall not be required to report that data again for the purposes of this title. Such emissions data shall be considered to be reported by the entity to the registry for the purpose of this title and included in the determination of the Director of the Office of National Climate Change Policy made under subsection (a).

(d) ENFORCEMENT.—If a person or entity that is required to report greenhouse gas emissions under this section fails to comply with that requirement, the Attorney General may, at the request of the Secretary, bring a civil action in the United States district court against the person or entity to impose on the person or entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

(e) RESOLUTION OF DISAPPROVAL.—If made, the determination of the Director of the Office of National Climate Change Policy made under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1111. NATIONAL ACADEMY REVIEW.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, the Secretary, in consultation with the Interagency Task Force, shall enter into an agreement with the National Academy of Sciences to review the scientific and technological methods, assumptions, and standards used by the Secretary and the Secretary of Commerce for such guidelines and report to the President and the Congress on the results of that review, together with such recommendations as may be appropriate within 6 months after the effective date of that agreement.

AMENDMENT NO. 3082

(Purpose: To provide that certain gasoline and diesel fuel be treated as entered into the customs territory of the United States)

At the appropriate place, insert the following:

SEC. ___. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3355

(Purpose: To amend the Internal Revenue Code of 1986 to extend the energy credit to stationary microturbine power plants)

In Division H, beginning on page 103, line 1, strike all through page 105, line 12, and insert the following:

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

''(I) generates at least 1 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 30 percent of the basis of such property, or

''(II) $1,000 for each kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term ''qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the basis of such property, or

''(II) $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

''(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

''(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

''(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

AMENDMENT NO. 3335

(Purpose: To amend the Internal Revenue Code of 1986 to extend the credit for the production of fuel from non-conventional sources with respect to certain existing facilities)

In Division H, on page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2005, in the case of any coke or coke gas produced in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

AMENDMENTS NOS. 3258 AND 3170

Mr. BINGAMAN. Madam President, I ask unanimous consent that, notwithstanding rule XXII, it now be in order for the Senate to consider, en bloc, amendment No. 3258 and amendment No. 3170; that the latter be modified with the changes that are at the desk; that the foregoing amendments be agreed to en bloc, and that the motions to reconsider be laid upon the table.

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

The amendments (Nos. 3258 and 3170, as modified), en bloc, were agreed to, as follows:

AMENDMENT NO. 3258

(Purpose: To strike the provision authorizing loan guarantees for an Alaska natural gas transportation project)

Strike section 708.

AMENDMENT NO. 317

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

''(B) PETITIONS FOR WAIVERS.—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.

AMENDMENTS NOS. 3082, 3130, 3331, 3336, 3338, 3349, 3350, 3351, 3352, 3353, 3356, AND 3359

Mr. BINGAMAN. Madam President, I ask unanimous consent that, notwithstanding rule XXII, it now be in order for the Senate to consider, en bloc, amendments No. 3082, No. 3130, No. 3331, No. 3336, No. 3338, No. 3349, No. 3350, No. 3351, No. 3352, No. 3353, No. 3356, and No. 3359; that the foregoing amendments be agreed to en bloc, and that the motions to reconsider be laid on the table.

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

The amendments (Nos. 3082, 3130, 3331, 3336, 3338, 3349, 3350, 3351, 3352, 3353, 3356 and 3359) were agreed to, as follows:

AMENDMENT NO. 3082

(Purpose: To provide that certain gasoline and diesel fuel be treated as entered into the customs territory of the United States)

At the appropriate place, insert the following:

SEC. ___. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3130

(Purpose: To amend the Internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles)

On page 73, between lines 2 and 3, insert the following:

SEC. ___. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

''(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) the commercial power takeoff vehicles credit under section 45K(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45K. Commercial power takeoff vehicles credit.''.

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45K(b)(2) of such Code, as added by subsection (a).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

AMENDMENT NO. 3331

(Purpose: To further encourage development of hydrogen refueling infrastructure)

In Division H, on page 50, strike lines 23 and 24, and insert the following:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2006.''.

(b) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

AMENDMENT NO. 3336

(Purpose: To amend the Internal Revenue Code of 1986 to provide for nonrecognition of grain on dispositions of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, and for other purposes)

In Division H, on page 216, after line 21, add the following:

SEC. ___. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

''(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

''(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

''(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

''(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.

''(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

''(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.

''(2) QUALIFIED DISPOSITION.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

''(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

''(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

''(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

''(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

''(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

''(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

''(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

''(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.

''(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED RECLAMATION EXPENDITURE.—

''(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

''(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

''(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.''.

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199B. Expensing of dairy property reclamation costs.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after May 22, 2001.

AMENDMENT NO. 3338

(Purpose: To amend the Internal Revenue Code of 1986 to modify energy credit for combined heat and power system property)

In Division H, on page 123, after line 25, add the following:

''(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make the use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

AMENDMENT NO. 3349

(Purpose: To modify the credit for the production of fuel from nonconventional sources regarding refined coal)

In Division H, on page 199, lines 5 through 7, strike ''at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide'' and insert ''at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury.''

AMENDMENT NO. 3350

(Purpose: To modify the credit for the production of electricity to include small irrigation power)

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) small irrigation power.''.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.''.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the installed capacity of which is less than 5 megawatts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

AMENDMENT NO. 3351

(Purpose: To modify the credit for residential energy efficient property by substituting natural gas furnances for naturla gas heat pumps)

In Division H, beginning on page 91, line 15, strike all through page 95, line 17, and insert the following:

''(iii) $250 for each advanced natural gas furnace,

''(iv) $250 for each central air conditioner,

''(v) $75 for each natural gas water heater, and

''(vi) $250 for each geothermal heat pump.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

''(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),''.

AMENDMENT NO. 3352

(Purpose: To modify the incentives for biodiesel)

In Division H, beginning on page 64, line 1, strike all through page 73, line 2, and insert the following:

SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

''SEC. 40B. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

''(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

''(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

''(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

''(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

''(II) for the taxable year in which such sale or use occurs.

''(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL V DEFINED.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

''(2) BIODIESEL NV DEFINED.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from non-virgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

''(3) REGISTRATION REQUIREMENTS.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

''(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(ii) the requirements of the American Society of Testing and Materials D6751.

''(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates such biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''.

''(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.''.

(B) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(C) Section 6501(m), as amended by this Act, is amended by inserting ''40B(e),'' after ''40(f),''.

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

''(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

''(n) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).''.

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL V MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

AMENDMENT NO. 3353

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the treatment of sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy)

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

''(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

''(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

''(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

AMENDMENT NO. 3356

(Purpose: To apply temporary regulations to certain output contracts)

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.

In the application of section 1–141–7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access with respect to the issuer's transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment as a contract entered into after such date shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

AMENDMENT NO. 3359

(Purpose: To modify the credit for new energy efficient homes by treating a manufactured home which meets the energy star standard as a 30 percent home)

In Division H, on page 74, line 16, strike ''Code'' and insert ''Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy''.

Mr. REID. Madam President, pursuant to the previous order, I now move to table the Boxer amendment No. 3139, and I ask for the yeas and nays on behalf of the majority leader.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. 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 59, nays 40, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—57

Allard	Crapo	Kohl
Allen	Daschle	Landrieu
Baucus	DeWine	Lincoln
Bayh	Domenici	Lott
Bennett	Dorgan	Lugar
Bond	Edwards	McConnell
Breaux	Enzi	Miller
Brownback	Frist	Murkowski
Bunning	Grassley	Nelson (NE)
Burns	Gregg	Nickles
Byrd	Hagel	Roberts
Campbell	Harkin	Santorum
Carnahan	Hatch	Sessions
Chafee	Hutchinson	Shelby
Cleland	Hutchison	Smith (NH)
Cochran	Inhofe	
Conrad	Jeffords	
Craig	Johnson	
Stabenow	Thomas	Thurmond
Stevens	Thompson	Voinovich

NAYS—42

Akaka	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Graham	Reed
Boxer	Gramm	Reid
Cantwell	Hollings	Rockefeller
Carper	Inouye	Sarbanes
Clinton	Kennedy	Schumer
Collins	Kerry	Smith (OR)
Corzine	Kyl	Snowe
Dayton	Leahy	Specter
Dodd	Levin	Torricelli
Durbin	Lieberman	Warner
Ensign	McCain	Wellstone
Feingold	Mikulski	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. BINGAMAN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3225

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Feinstein amendment No. 3225.

The Senator from Nevada.

Mr. REID. Madam President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3225. The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—60

Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Bond	Edwards	Lott
Breaux	Feingold	Lugar
Brownback	Fitzgerald	McConnell
Bunning	Frist	Mikulski
Burns	Graham	Miller
Campbell	Grassley	Murkowski
Carnahan	Gregg	Nelson (FL)
Carper	Hagel	Nelson (NE)
Chafee	Harkin	Roberts
Cochran	Hollings	Sarbanes
Conrad	Hutchinson	Sessions
Craig	Inhofe	Smith (NH)
Crapo	Inouye	Stabenow
Daschle	Jeffords	Stevens
Dayton	Johnson	Thurmond
DeWine	Kerry	Torricelli
Dodd	Kohl	Voinovich
Domenici	Landrieu	Wellstone

NAYS—39

Akaka	Corzine	Murray
Allard	Ensign	Nickles
Allen	Enzi	Reed
Bennett	Feinstein	Reid
Biden	Gramm	Rockefeller
Bingaman	Hatch	Santorum
Boxer	Hutchison	Schumer
Byrd	Kennedy	Shelby
Cantwell	Kyl	Smith (OR)
Cleland	Leahy	
Clinton	Lieberman	
Collins	McCain	
Snowe	Thomas	Warner
Specter	Thompson	Wyden

NOT VOTING—1

Helms

The motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

CHANGE OF VOTE

Mr. McCONNELL. Mr. President, on rollcall vote No. 88, I voted no. It was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote since it would not affect the outcome.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we have approximately 2 hours until all time runs out on this legislation as a result of the postcloture rules. The following amendments are about all we are going to have time to work on before 3:30. I ask unanimous consent that Senator DURBIN be allowed to offer amendment No. 3342, with 10 minutes equally divided; Senator HARKIN, amendment No. 3195, 20 minutes equally divided, and that Senator DORGAN be granted 10 minutes of that 20 in opposition; Carper amendment No. 3198, with 40 minutes equally divided; amendment No. 3326, the Murray amendment, 10 minutes equally divided; Kyl amendments Nos. 3332 and 3333, 20 minutes total for the two amendments equally divided.

I ask unanimous consent that following the completion of the debate on these amendments there be a series of votes in stacked sequence with no intervening second-degree amendments.

The votes would be on or in relation to the amendments.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. This does not waive points of order on the amendments?

Mr. REID. It waives no points of order.

Mr. LEVIN. One other issue. There are other amendments at the desk, including one in which I am interested.

Mr. REID. Yes. I will work on that.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Reserving the right to object, and I will probably not object, but we have an amendment on climate change issues that I did not hear made mention of. I inquire of the assistant majority leader with regard to that amendment.

Mr. REID. I say to my friend from Kansas, we have taken these amendments in the sequence they are now listed. Sadly, is the best way I can say it, there are eight amendments to which we are simply not going to have time to get. The reason I have asked these people to take less time than they are entitled is so we can get to as many of them as possible.

I say to my friend, if we are able to complete this unanimous consent agreement, what we are going to do is ask unanimous consent as to all amendments that are in order, that are on this list, Senators would have 2 minutes for and 2 minutes against each amendment. Other than that, that is the best we can do because that is 4 minutes more than the amendments are entitled to under the rule.

Mr. BROWNBACK. If I could inquire, does that include, then, the amendment we have put forward?

Mr. REID. It will include that.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. It is my understanding we do not need a vote on the Durbin amendment, that a voice vote would be adequate, if that is all right with the author of the amendment.

Mr. REID. We hope that is the case. That is my understanding.

Mr. CRAIG. Fine. That is what we believe can be done over on this side.

Mr. REID. I say to my friend from Idaho, if we get lucky, there may be one or two others that may not require a vote. If that is the case, I say to my friend from Kansas, we will try to move down the list a little more. But 3:30 is the drop dead time under the rule.

Mr. CRAIG. That is correct. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nevada.

AMENDMENT NO. 3336 TO AMENDMENT NO. 2917

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside temporarily in order to call up amendment No. 3336 for Senator LEVIN. This has been cleared on the other side.

Mr. LEVIN. Mr. President, I do not know that it has been cleared on the other side.

Mr. REID. Yes, it has been. It has not been cleared for acceptance. This unanimous consent agreement has been cleared.

Mr. CRAIG. The unanimous consent agreement?

Mr. REID. To allow the amendment to be listed.

Mr. CRAIG. To have it listed, is that the unanimous consent request?

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I withdraw.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN, proposes an amendment numbered 3366 to amendment No. 2917.

Mr. REID. Mr. President, I ask unanimous consent that the 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 incentives for alternative fuel motor vehicles and refueling properties)

In Division H, on page 73, between lines 2 and 3, insert the following:

SEC. ___. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking ''5 percent'' and inserting ''4 percent''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

Mr. REID. I call for regular order.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3342

Mr. DURBIN. Mr. President, yesterday I had reported by the clerk amendment No. 3342 and it was laid aside. I do not know if it is necessary for the clerk to report it again. I will speak briefly to the amendment. Is it necessary for the clerk to report?

The PRESIDING OFFICER. The amendment is pending.

Mr. DURBIN. Mr. President, I will be brief because I believe this amendment is going to be agreed to by a voice vote. I thank all those who are involved in that: Senator BINGAMAN, Senator MURKOWSKI, as well as Senator NICKLES, Senator GRASSLEY, Senator BAUCUS, and others who have followed this matter.

We clearly need to reduce our dependence on fossil fuels, particularly on imported oil. We should focus on sources of energy that are clean, free, and literally limitless. One of those sources is wind. Wind power is now creating opportunity for the generation of electricity across the United States. I introduced legislation last year to create a tax credit to help defray the cost of installing a small wind energy system to generate electricity for homes, farms, and businesses. I hope this legislation will ultimately become the law of the land.

Today, with this amendment, we take an important step forward in providing for equal treatment of wind energy used in business and nonbusiness applications. It certainly would apply to our quest to reduce our dependence on foreign oil. This is extremely important.

A recent USA Today poll showed 91 percent of the public favors incentives for wind, solar, and fuel cells. We think this amendment is one that will give us an opportunity to use wind power across America, to generate electricity, particularly in applications for farms and ranches and businesses.

This map I have illustrates the areas of the United States where there are wind resources that could generate electricity. I am surprised, in looking at the map, that there is no indication that Washington, DC, is a source of wind, but those who visit Capitol Hill might argue otherwise.

I think if we take a look at this map, though, we can see we have ample opportunities across the United States for a clean, literally limitless, source of electricity.

I urge adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 3342) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. 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.

AMENDMENT NO. 3195

Mr. REID. Mr. President, I ask unanimous consent that the time on the Harkin amendment, the next in order as I understand it, start running against that amendment.

Mr. COCHRAN. Reserving the right to object, I didn't understand the request.

Mr. REID. The Harkin amendment has 20 minutes evenly divided, and I think the time should start running against that.

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

Mr. COCHRAN. Mr. President, I am a cosponsor of the Harkin amendment, along with Senator GRASSLEY and Senator LINCOLN. This amendment was offered last night. We had a discussion of the amendment at that time. The issue presented by this amendment is whether the bill, as taken up on the floor of the Senate as it relates to energy-efficient ratios of air-conditioning units, should be adopted by the Senate or another ratio that would provide virtually the same amount of efficiency but at a lower ratio and leave in place production plants that are producing coils for air-conditioning units on the market today and the entire air-conditioning units to continue to function.

Let me give a parochial example of the implications of this issue for my State of Mississippi. There are over 7,000 workers employed in facilities that produce either components for or total air-conditioning units. One plant employs 2,500 people in Grenada, MS. Our amendment allows the use, sale, manufacture, and use by citizens of air-conditioning units with an energy efficiency ratio of 12. These are numeric. The bill before the Senate requires a ratio of 13. If the committee bill is adopted, or the bill before the Senate—the committee didn't have a whole lot to do with writing this bill, incidentally—if the bill before the Senate is adopted without amendment to this section, that plant at Grenada, MS, will shut down and those 2,500 workers will be out of work. This will be replicated not only throughout my State and other manufacturing facilities but throughout the country.

So you need to check to see what the results will be in your State before you vote on this amendment.

The other side of the story is, the cost of air-conditioning units is going to skyrocket. I mean that seriously. An additional $700 per air-conditioning unit is going to be added to the cost to those who want to buy an air-conditioning unit. Think about that. If you have a State where people work for the minimum wage or low salaries, they can forget about buying an air-conditioning unit. They are not going to be able to afford air-conditioning.

One of the main purposes of this legislation is to improve energy efficiency. We are for that. The current energy efficiency ratio for air-conditioning units is at the level of 10. This amendment raises that by 20 percent to 12. We are suggesting—the Senators from Iowa, the Senator from Arkansas and I—with this amendment, that the ratio of 12 is the correct level.

We are not a regulatory body. Think about this. This bill is requiring the Senate to choose a regulatory standard. A rulemaking was in process at the Department of Energy. This legislation preempts that process and arbitrarily sets a limit that is going to unreasonably raise costs of air-conditioning units and put a lot of people out of work for no really good, justifiable reason.

I urge the Senate to think carefully about the implications of this amendment and its consequences. We urge Members to vote for the level that is more appropriate, that we think the Department of Energy would move toward and establish by its rulemaking power—which it should have been allowed to do. This bill preempts that process, stops the rulemaking in its tracks, and imposes a new energy efficiency standard. It is too high. It is too high for the reasons I stated.

I urge the Senate to adopt the Harkin-Cochran-Grassley-Lincoln amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. How much time is available?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. DORGAN. Mr. President, I was not available when Senator HARKIN introduced the amendment last evening, but I want to come to the floor to support the standard that exists in the energy bill we are now considering.

This issue is in many ways complicated, but it is also the issue that deals with energy efficiency. We are talking about increased production, conservation, efficiency, as well as the promotion of limitless, renewable sources of energy. This issue is called the Seasonal Energy Efficiency Ratio. Almost no one knows what it is. It is called the SEER standard. The standard in the bill is established at 13 SEER, which is a standard that was published in the Federal Register almost a year and a half ago, January 2001. It would increase residential air-conditioner efficiency by 30 percent over the prior 10 SEER standard.

The Goodman Manufacturing Company, for example, said in testimony they have given at hearings: There have been claims that the 13 SEER standard would cost consumers substantially more money than the proposed rollback to a 12 SEER standard. According to the Department of Energy, the average difference in cost between a 13 SEER unit and a 12 SEER unit is approximately $122. That is what I am told the Department of Energy says is the difference.

The Department of Energy also indicates that cost will be recovered in a very short period of time, because of the added efficiency in a 13 SEER standard. According to the Goodman Company, which is the second-largest manufacture of air-conditioners in the country, and who supports the 13 SEER standard in the bill, the incremental cost to the manufacturer to produce a 13 SEER unit is about $100. They say: We believe the most efficient technology should be available to people of all income levels at an affordable price. Not all manufacturers may have this same marketing philosophy. Some may seek a protection of higher profit margins on their more efficient equipment. A 13 SEER standard would force all manufacturers to be truly competitive and provide all consumers with the most affordable energy-efficient technology for air-conditioners that is available today.

This issue deals with a mix of things we have to do in a successful energy policy. We are talking about production, conservation, efficiency, and limitless, renewable sources of energy. This is the efficiency piece that deals with air-conditioners.

Most of us understand that at peak loads at certain times of the year, the use of air-conditioners consumes a substantial amount of the energy in our country. Much has been said about it. Let me show a couple of charts that describe a couple of other alternatives.

Pat Wood, former chairman of the Texas Public Utility Commission said:

> Such a significantly strengthened standard to SEER 13 would have the triple benefits of improving electric system reliability, reducing air pollution, and cutting cooling costs for our customers.

The National Association of Regulatory Utility Commissioners—of the various States—say:

> Keeping the SEER 13 standard for residential air-conditioners is a crucial component for curbing future demand growth while retaining consumer needs for affordable cooling.

And the EPA says:

> A 13 SEER standard will do more to stimulate energy savings that benefit the consumer, reduce fossil fuel consumption and limit emissions of air pollutants.

All of those represent the benefits of the 13 SEER standard as opposed to the 12 SEER standard.

History has shown us, on virtually all of these areas of technology, that once a standard is implemented, the markets drive prices down and make the more efficient equipment even more affordable for all consumers. The incremental cost to the manufacturer to produce the 13 SEER standard, according to the Goodman Manufacturing Company, the second largest air-conditioning manufacturing company in the country—and, incidentally, a supporter of the 13 SEER standard—is about $100. The Goodman Manufacturing company, the EPA, and others say that will be recouped in lower electricity costs by a more efficient air-conditioner in a very short period of time.

I mentioned Pat Wood from Texas in a chart. The Texas electric rates were 27th in the Nation compared to other States. One of the primary uses of electricity in Texas is air-conditioning. Approximately 90 percent of the homes in Texas have air-conditioning, and Texans spend more on air-conditioning than on space heating.

If the 13 SEER standard is implemented, for example, Texas electric

companies will save $241 million by the year 2010. It is estimated in 2020 they will have saved $785 million in electric costs.

Consumer organizations and low-income advocacy organizations support the 13 SEER standard.

It seems to me, at a time when we want to ensure energy security, increasing the efficiency of our appliances makes good sense. We have testimony not only from one of the large air-conditioning manufacturers, but also from smaller air-conditioning manufacturers, that they support this. This can be done and can be done in a manner that is helpful to all Americans.

Goodman Manufacturing, the second largest manufacturer, a couple of small manufacturers—Goettl of Arizona and Aaon, Inc. of Tulsa, Oklahoma—also support the 30-percent increase in efficiency.

I know there is not the time to adequately discuss a number of these issues in the energy bill. As I indicated when I began, these are complicated issues. I know there are disagreements about them within the manufacturing sector on air-conditioning units. But with respect to legislation that deals with a range of issues in a comprehensive energy policy, on the efficiency side, the 13 SEER standard makes sense.

The 13 SEER standard will save energy. It will promote a substantial movement by the manufacturing base to produce these at an affordable cost. It will save money and also be friendly to our environment. All of this make sense as part of an energy policy.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 20 seconds.

Mr. DORGAN. I reserve the remainder of my time.

Mr. MURKOWSKI. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There remains 4 minutes 18 seconds.

Mr. MURKOWSKI. Mr. President, I was going to speak on behalf of the amendment, but I will defer to Senator HARKIN. He controls the time.

Mr. HARKIN. I am sorry, how much time remains?

The PRESIDING OFFICER. The Chair corrects the time. There remain 5 minutes 32 seconds.

Mr. MURKOWSKI. Will my colleague proceed now. I am going to take 2 minutes.

Mr. HARKIN. Whatever the Senator wants.

Mr. MURKOWSKI. I will yield to the Senator the remaining time.

Mr. HARKIN. I thank my colleague.

Mr. MURKOWSKI. Mr. President, this amendment strikes the mandate for a 13 SEER standard for residential air-conditioners and heat pumps. As we know, the DOE would be required to issue a new 12 SEER efficiency standard within 90 days. This would result in the same standard as recommended by the DOE staff during the previous administration, and constitute a 20-percent increase in efficiency, which is not a rollback by any means, as some would indicate.

Here we are again in the situation, just as in the CAFE debate, where certain Senators want you to believe they know better. Instead of letting the agency, in this case the DOE, act on a reasonable efficiency and cost standard, the number 13 was picked out of the air even though it meant higher costs and fewer choices for consumers.

To give some idea, the nonpartisan Energy Administration estimates the 12 SEER standard saves consumers money. The 13 SEER standard is a net cost, that is, about $600 million over 10 years. To give some idea, the 12 SEER saves $2.3 billion over the 10-year period.

During the last rulemaking in 2000, DOE staff considered a wide range of possible efficiency standards. Based on a review of all factors, DOE staff proposed a new 12 SEER standard—a 20 percent increase in energy efficiency. However, Secretary Richardson arbitrarily decided—without any further study—to issue a new 13 SEER rule in the final days of the Clinton Administration. This rule was placed under further review.

This higher level was not supported by the rulemaking—and it certainly is not economically justifiable. To justify the last minute 13 SEER standard, DOE in the prior Administration disregarded the industry data that it had used throughout the entire rulemaking. The cost of an air conditioner will increase by $712—nearly 30 percent—if a 13 SEER standard is imposed. For most consumers in the Midwest and northern regions of the country the ''payback'' time for recovery of the additional costs is well over 10 years. For these consumers—the extra cost of the more efficient unit just simply isn't worth it over the life of the equipment.

This dramatic increase in the cost of a new air conditioner under a 13 SEER standard will make air conditioning unaffordable for many seniors, working families, and low-income consumers, many of whom own single family homes and many of whom rely on air conditioning for their health and well being.

For small and manufactured homes, the expense is even greater. The size of an air conditioner under a 13 SEER standard is substantially larger than under a 10 or 12 SEER standard. This creates enormous retrofitting problems and much higher cost, particularly in manufactured housing. The larger cooling coils simply cannot fit in the space made for the smaller unit.

Because of the substantial increase in cost, many consumers will choose to fix older units that are less energy efficient instead of make a new purchase. This would defeat the purpose of higher standards—to save energy and reduce heating and cooling expenses.

A 13 SEER standard would have tremendously negative impacts on industry competition and small businesses: 84 percent of all central air conditioning models would be suddenly obsolete; as would 86 percent of all heat pump models; redesign and retooling of manufacturing facilities would cost the industry $350 million—reducing profits and jobs.

Nearly half of the original equipment manufacturers selling air conditioners in the U.S. today do not offer 13 SEER products. The Department of Justice and the Small Business Administration have both expressed concerns over the loss of competition and the closure of many small manufacturers.

But most of all—the 13 SEER standard is not economically justifiable as is required under existing law. Industry figures show that both the 12 and the 13 SEER standards will cost consumers billions after electricity savings are factored in, and the non-partisan Energy Information Administration estimates that the 12 SEER standard saves consumers money; while the 13 SEER standard is a net cost.

These are the reasons DOE staff initially recommended the 12 SEER standard as the ''economically justifiable'' level of efficiency, and this is why the DOE has proposed a 12 SEER standard as a final rule after its further review of the record. We should respect the expertise of the DOE—and let them carry out their duties under existing law.

A 13 SEER standard would have a devastating effect on the industry, eliminate competition, and cost thousands of jobs. By contrast, a 12 SEER standard will benefit consumers, preserve jobs and competition, and truly save energy. I support the amendment to strike the 13 SEER standard, and I encourage my colleagues to do the same.

I yield the remaining time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the distinguished Senator from Alaska for his comments. I support him in favor of a 12 SEER standard instead of a 13. I join with my friend from Mississippi. I thank him for his strong support of this amendment.

It always sounds nice. You do a 13, you are going to save a lot of energy and can quote from EPA and that stuff. But the fact remains, No. 1, the Department of Justice in the last Administration had real concerns about a 13 standard and this administration said this would be harmful to small businesses, this would not be competitive.

No. 2, the professionals in the Department of Energy in both the past administration and in this one have said a 12 standard is the best standard.

What happens if you go to a 13? The cost of these air-conditioners will be higher. The elderly, modest-income people, people who live in manufactured homes, will be less able to afford them.

What they will do is they will keep their old air-conditioners, and those are less energy efficient. They will not move to the new ones.

The cost of going from 10 to 13 will be more than $700 per air-conditioner. To go to a 12, it is about $407.

Keep in mind, under the rules the Department of Energy has to abide by, they have to look not just at the energy use, they have to look at the impact it has on certain subgroups, such as those of modest means. Under the 13 that is in this bill, it will mean a lot of low-income people in this country are going to be harmed. It will mean the elderly who need air-conditioning, when it really gets hot, their health and their well-being, will be unable to have the air-conditioning they need. Is this what we want to do around here?

When Senators come to vote on this issue, I hope this is not some kind of a knee-jerk reaction: 13 is higher than 12 and we want to have a higher energy efficiency standard, so we will vote for 13, without thinking about what the implications will mean, what it will mean to consumers, the elderly, the low-income people all over this country.

Last, what is it going to mean to jobs? We have thousands of jobs in my State of Iowa that are in jeopardy, dire jeopardy if the standard of 13 stays in this bill. These are companies that produce good quality equipment. You have all heard of Lennox. It is a great company. But I can tell you right now, if it goes to 13, Lennox will be squeezed and jobs will be lost in my state of Iowa.

Any way you cut it, the 13 standard that is in the substitute amendment now before this body is not going to achieve the goals of lower electric energy use people hope for. Instead, it is going to hurt our elderly, our low income, and especially the jobs of the people who work in these industries today.

I reserve the remainder of my time, however much it might be.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. CANTWELL. Mr. President, I rise today in opposition to this amendment, which would leave it to the Secretary of Energy to decide what efficiency standard should be applied to residential air conditioners and heat pumps. This is an attempt to reduce by at least 10 percent the energy efficiency requirement proposed in this bill, which reflects the standard promulgated by the Department of Energy in January 2001—the result of a comprehensive rulemaking effort and multiple years of hearings and analysis.

The new standard, called SEER 13, seasonal energy efficiency ratio, was supposed to take effect last February, but it was delayed by the Bush administration's suspension of a long list of Clinton era environmental rules in what's come to be known as the ''Card Memo''—the legality of which is still subject to litigation.

My colleagues may be aware of a number of other rules that came under the Bush administration's scrutiny as a result of this freeze on environmental protections. The list is long and includes: the attempt to roll back the arsenic standard for drinking water; suspension of the roadless rule, designed to protect more than 60 million acres of untouched national forests from road building and logging; and even the Clinton administration's New Source Review policy, restricting harmful emissions from power plants.

Given this laundry list of environmental reversals, it should probably not surprise us that the Bush administration also took steps to undermine the air conditioning efficiency standard. After merely 2 months of review—compared to the 8-year rulemaking process of the Clinton administration—the Department of Energy last April proposed lowering the air conditioning efficiency standard to SEER 12, or by at least 10 percent relative to the Clinton rule. What is more, the Bush standard wouldn't even go into effect until 2006.

And so, the fix is in. If we leave this important standard to the discretion of this administration's Department of Energy, we will needlessly lower the bar for the efficiency of appliances that use as much as 28 percent of all the electricity consumed in this nation on hot summer days. Thus, this amendment would adversely impact our environment, the reliability of our transmission grid and our Nation's consumers.

I also think it's interesting to note that the Bush administration's proposed standard has been vigorously challenged—not just by consumer groups, environmental and energy efficiency organizations, but also by utilities themselves, State utility regulators, some of the same large and small appliance manufacturers that this amendment purports to help, and even the Bush administration's own Environmental Protection Agency.

Indeed, in comments on the Department of Energy's rulemaking, the Deputy Administrator of the EPA wrote that ''the EPA believes there is a strong rationale to support a 13 SEER standard,'' put in place by the Clinton rule, and further alleged that several DOE's arguments in justifying its proposed rollback contained ''overestimates,'' ''underestimates,'' and ''misinformation.''

Now, why this fight over a seemingly obscure requirement? What is the difference between a 12 SEER and 13 SEER standard?

By 2020, the Bush administration's proposal—which this amendment would render a foregone conclusion—would increase by nearly 14,500 Megawatts the peak electricity demand across this country. That is roughly the same as the output from 48 new power plants.

It would, every year, add 2.5 million metric tons of carbon emissions into our air;

It would cost American consumers $1 billion dollars on their electricity bills.

And it would degrade the reliability of our already strained transmission grid.

I believe these alone are compelling facts. But I also want to talk about a benefit of the 13 SEER standard—the standard that is now in this bill—that became obvious to us in Washington State during the height of the Western energy crisis.

Now, in my State, we don't have a lot of air-conditioning load during the summer because our major population centers are located in a temperate climate where temperatures eclipse 80 for only a few days a year. In fact, our peak energy usage occurs during the winter—for heating purposes. But this is an important issue for ratepayers in my State nonetheless, because we are upstream from—and interconnected, through Oregon, to—California. And in California, air conditioners account for as much as 30 percent of peak energy demand on hot summer days. That is, during the business hours when our economy requires the most energy to function—during the day, when temperatures are also at their height—air conditioning alone uses almost a third of all the energy consumed in that State.

Now, a very painful lesson was driven home up and down the west coast last year. That is, when supply is tightest—during periods of peak demand—the grid is also the most constrained and wholesale power prices are the most volatile. When supply is tight, utilities switch on their so-called ''peaker'' plants—plants that are usually the most obsolete, least efficient, environmentally damaging and run for only a few hours a year. And as my colleagues are aware—because of the unique nature of electricity as a commodity that cannot be stored—that very last megawatt of electricity needed to meet demand is by far the most expensive. It can have an almost exponential effect on power supply costs across a market. And it's a primary driver in price spikes and volatility.

So by increasing the efficiency of air conditioners—by 30 percent under the Clinton administration standard that this bill contains—we would essentially be helping to drive down peak demand in a way that will also lessen volatility in electricity markets, enhance the reliability of the grid and spare our environment emissions from these peaker plants.

I believe the efficiency standard contained in this bill is right for consumers and it is right for the environment. Contrary to what some of my colleagues may assert, it is also imminently achievable for industry. All manufacturers already make air conditioning models that comply with the 30 percent savings standard contained in this bill—so clearly, the technology already exists. And the Department of

Energy concluded in its 8-year rulemaking that the standard would actually increase—not reduce—manufacturing jobs in this sector.

So I think the choice is clear. The evidence supports the standard contained in this bill. This is an opportunity for this body to resist yet another Bush administration environmental rollback. So I ask my colleagues to oppose this amendment.

Mr. BINGAMAN. How much time remains for the opponents?

The PRESIDING OFFICER. There remain 2 minutes 17 seconds.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, to just put this in perspective, this is another one of these amendments that we have seen a few of during this debate over the last several weeks—the sky is falling, don't try requiring anything that is onerous.

The truth is the provision in the bill says that by the year 2006 we believe the air-conditioners sold in the country ought to meet this SEER standard. Lennox, the manufacturer which is the one the Senator from Iowa referred to today, has over 19 models of air-conditioners, and 130 of those models already meet the standard in 2002. We are saying that 4 years from now we would like for the others to meet the standards as well.

Carrier lists 1,000 models that they make available. Of those, fewer than 100 have a SEER standard of less than 13. They don't have any air-conditioners on the market with a SEER standard of less than 12.25. So we are saying, 4 years from now let's move to the higher standard.

The EPA—not just the EPA of the prior administration but the EPA of this administration—agrees with our position.

I ask unanimous consent that following my remarks, we have printed in the RECORD a letter dated October 19 from Linda Fisher, Deputy Administrator of EPA, saying that EPA believes there is a strong rationale for the 13 SEER standard we have in this bill.

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

(See Exhibit 1.)

Mr. BINGAMAN. Mr. President, it is clear to me there are a great many benefits to be achieved for our country, for consumers, and for the environment, in lower electricity bills, by going ahead and maintaining the provision we have in the bill, the 13 SEER standard. My colleague from Iowa says it is going to cost a tremendous number of jobs. The Department of Energy itself—this Department of Energy—says this will create jobs and it will not lose jobs. It requires a few more workers to produce these air-conditioners with this higher standard. Instead of losing jobs in 2006 when this new mandate will be effective, we will be creating jobs.

If this is an effort to protect jobs for manufacturers in this industry, it is a misguided effort. I believe strongly that the provision we have in the bill is the right provision.

I urge my colleagues not to support the amendment that is offered by the Senator from Iowa.

EXHIBIT 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, October 19, 2001.

Ms. BRENDA EDWARDS-JONES,
U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Central Air Conditioners and Heat Pumps, Docket No. EE–RM/STD–98–440, Washington, DC.

DEAR MS. EDWARDS-JONES: On behalf of the U.S. Environmental Protection Agency, I am pleased to submit the attached comments to Docket No: EE–RM–98–440, the Department of Energy's Proposed Rule: Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards.

DOE has proposed a change to its previously issued standard that decreases energy efficiency requirements for residential air conditioners and heat pumps. DOE proposes to withdraw its previously issued 13 SEER standard and replace it with a 12 SEER standard. These comments affirm EPA's support for DOE's original 13 SEER standard.

EPA believes there is a strong rationale to support a 13 SEER standard. A 13 SEER standard represents a 30% increase in the minimum efficiency requirements for central air conditioners and air source heat pumps. In contrast, a 12 SEER standard represents only a 20% increase. The Administration's National Energy Policy stresses the important role that energy efficiency plays in our energy future. A 13 SEER DOE standard will do more to stimulate energy savings that benefit the consumer. DOE has quantified these savings at approximately 4.2 quads of energy over the 2006–2030 period, equivalent to the annual energy use of 26 million households and resulting in net benefits to the consumer of approximately $1 billion by 2020. In comparison, DOE projects that only 3 quads of energy would be saved over that same period with a 12 SEER standard.

A 13 SEER standard will also do more to reduce fossil fuel consumption and more to limit emissions of air pollutants. For example, by avoiding the construction of 39 400 megawatt power plants, a 13 SEER standard will reduce nitrous oxides (NO_x) emissions by up to 85 thousand metric tons versus up to 73 thousand metric tons that would be reduced with a 12 SEER standard. A 13 SEER standard will also result in cumulative greenhouse gas emission reductions of up to 33 million metric tons (Mt) of carbon. This is in contrast to a 12 SEER rule which will reduce up to 24 Mt of carbon equivalent by avoiding the construction of 27 400 megawatt power plants. At a time when many areas across the nation are struggling to improve their air quality, the additional emissions reductions achieved by a 13 SEER standard are especially important.

Thank you for the opportunity to provide these written comments. Should you have any questions, please contact Dave Godwin in EPA's Office of Air and Radiation at 202–564–3517 or via e-mail at godwin.dave@epa.gov.

Sincerely,

LINDA J. FISHER,
Deputy Administrator.

COMMENTS OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY ON THE PROPOSED RULE, ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS, CENTRAL AIR CONDITIONERS AND HEAT PUMPS ENERGY CONSERVATION STANDARDS, DOCKET NO. EE–RM–98–440, OCTOBER 10, 2001

OVERVIEW OF EPA COMMENTS

The Environmental Protection Agency welcomes the opportunity to comment on the Department of Energy's Proposed Rule setting forth energy conservation standards for residential central air conditioners and central air conditioning heat pumps. EPA recognizes that the new proposed DOE rule represents a 20% increase in minimum efficiency standards for central air conditioning and heat pumps. However, we instead support the previous final rule of a 30% increase.

EPA has issue with several of the arguments DOE used to justify the withdrawal of the previous final rule as outlined within the Federal Register Notice of July 25, 2001 and the Technical Support Document. In summary, EPA believes that the information in the Federal Register Notice of July 25, 2001:

overstates the regulatory burden on manufacturers due to HCFC phase-out and concludes that the industry is under greater financial pressure from a 13 SEER standard than it is,

understates the savings benefits of the 13 SEER standard,

over and underestimates certain distributional inequalities,

mischaracterizes the number of manufacturers that already produce at the 13 SEER level or could produce at the 13 SEER level through modest changes to the products, and thereby mischaracterizes the availability of 13 SEER product.

EPA believes there is a strong rationale to support a 13 SEER standard. EPA also believes that the more stringent standard will be more representative of the long term goals of the administration's energy policy and will do more to reduce both the number of new power plants that need to be constructed, as well as the emissions resulting from these plants. EPA's more detailed comments are provided below.

OVERSTATED REGULATORY BURDEN DUE TO HCFC PHASEOUT

EPA analysis indicates that the Department of Energy's (DOE) projected cost for manufacturers to transition from HCFT–22 to a substitute for residential central air conditioners and heat pumps is likely to be a significant overestimate. Both EPA's own analyses, and estimates from at least one large manufacturer indicate that the DOE estimates in their Technical Support Document (TSD) are at least twice as high as warranted based on prior industry transitions and more recent trends.

The attached analysis from EPA's contractor, ICF Consulting, suggests a more reasonable estimate of the cost to be around $20 to $30 million per company, rather than the $50 million estimated by DOE, for the following reasons (see Exhibit 1):

The costs to retool a facility to accept new compressors is estimated at only $2 million.

The capital cost for converting from CFC–12 to HFC–134a for the entire U.S. refrigerator industry was estimated to range from $7 million to $23 million.

Projects approved under the Multilateral Fund of the Montreal Protocol for conversion of refrigerator manufacturing plants from use of CFCs to both HFC–134a refrigerant, and HCFC or hydrocarbon foam processes, show incremental cost estimates of $200,000 to $1 million.

These estimates are based on the expectation that the industry will transition to one or both of the two refrigerant HFC blends

that have emerged as likely replacements for HCFC–22 (as cited in the TSD), R–407C and R–410A, and appear to provide roughly equivalent or better energy efficiency.

Furthermore, many manufacturers can produce 13 SEER units with only minor modifications to their facilities. DOE already acknowledges in the TSD that using ''407C lowers the efficiency of unmodified R–22 systems by 5–10 percent under the SEER test conditions.'' (TSD, page 4–49). Thus, an unmodified R–22 system of 13.7 to 14.4 SEER, charged with R–407C, would achieve a 13 SEER. Of the seven manufacturers listed in the TSD, six (Carrier, Goodman, Rheem, Lennox, Trane and York) currently offer certified products with a SEER of 14.4 or greater, Nordyne makes units up to 14 SEER. Furthermore, it can only be assumed that minor design changes accounting for the use of R–407C would lower or eliminate the 5–10% efficiency loss.

With respect to R–410A, the TSD states that ''manufacturers can preserve system capacity by reducing tube diameter (and tube costs). Furthermore, 410A can provide a slight efficiency boost at the SEER testing points.'' (TSD, page 4–49). Thus, the use of R–410A, while likely requiring more redesign of equipment, may actually increase efficiencies. This increase would eliminate the need to take some of the steps outlined in the TSD necessary to comply with a 13 SEER rule while using HCFC–22 refrigerant. The TSD necessary to comply with a 13 SEER rule while using HCFC–22 refrigerant. The TSD notes that ''Carrier introduced a line of products based on 410A in 1998 and most other major manufacturers have since followed suit.'' (TSD page 4–50).

Carrier, the manufacturer with the largest (31%) share of the residential central air conditioner market (TSD, page 8–60), already offers efficient R–410A units. ARI lists over 1000 models manufactured by Carrier that use R–410A, ranging in cooling capacity from 23,200 Btuh (less than 2 tons) to 60,000 Btuh (5 tons). Of these, only a few dozen have a SEER of less than 13, and all have a SEER of at least 12.25. The maximum SEER listed is 18. While these models do not represent all of Carrier's products, it is apparent that switching to R–410A and achieving SEER ratings of 13 is very much possible. Carrier may now be in a position to increase its manufacturing capacity of these R–410A lines by the 2006 DOE deadline, thus meeting a 13 SEER standard with little or no additional regulatory burden. To the extent that Carrier cannot increase its production of R–410A by 2006 to meet demand, it can supplement production with high-efficiency HCFC–22 units until 2010.

Goodman, the manufacturer with the second largest share (19%) of the market, had already expressed support for the 13 SEER. Goodman has analyzed the costs associated with switching refrigerants and meeting a 13 SEER standard and expects the combined cost for both will be on the order of half of DOE's $50 million estimate for just the refrigerant transition. They feel that this $25 million per company is representative of the vast majority of the industry.

Many other companies offer or are well into the development of equipment using alternatives to HCFC–22. For instance, Lennox offers products with R–410A, ranging from 11.35 to 15. 15 SEER. Of 199 models listed, with capacities ranging from 23,600 to 61,000 Btuh, 130 models meet or exceed 13 SEER.

As we look forward over the next decade, there are a number of paths that companies can take to keep these costs low as they work to comply with the EPA regulations banning the shipping of new equipment charged with HCFC–22 starting January 1, 2010 and work to comply with the DOE efficiency rule (whether 12 SEER or 13 SEER) by 2006. One example would be:

Step up current production of high efficiency HCFC–22 equipment;

Meanwhile, phase out production of lower efficiency HCFC–22 units by 2006;

By 2010, switch these high-efficiency production lines to a new refrigerant while ensuring the efficiency standards are still met.

Another example would be:

Move directly to producing R–407C and/or R–410A units that meet the new DOE efficiency regulations;

Increase the production of these units to meet customer demand by 2006;

Meanwhile, phase out all HCFC–22 units by 2006.

Of course, some combination of these strategies is more likely to be taken and seems to offer the most opportunity for manufacturers to reduce regulatory burden.

The TSD states ''To the extent that manufacturers can introduce new products utilizing the new refrigerant and meeting the new efficiency standard, the cumulative burden will be reduced.'' (TSD page 8–62). EPA believes that there is ample opportunity to meet both a 13 SEER efficiency standard and a ban on HCFC–22 in new equipment with limited regulatory burden.

UNDERESTIMATES OF SAVINGS IN THE COST BENEFIT ANALYSIS

DOE's analysis of the benefits of the withdrawn 13 SEER rule are significantly underestimated. DOE's analysis is based on summer 1996 electricity prices, adjusted downward based on EIA projections of future annual electricity prices. Changes in the electricity market due to utility deregulation has resulted in increased electricity prices overall. DOE did not consider this trend in its analysis.

According to Synapse Energy Economics' wholesale electricity price data, DOE analysis underestimates the cost of electricity for residential air conditioning by an average of approximately $0.02/kWh. In addition, the California Public Utilities Commission raised some residential rates by as much as 37%, affecting more than 10% of the U.S. electricity market and thereby, raising the national average electricity prices above DOE's projections. Adjusting DOE's analysis to include more recent electricity prices will definitely and drastically alter the results indicating that a DOE minimum standard of 13 SEER represents the better decision for the nation.

OVER AND UNDER ESTIMATES OF DISTRIBUTIONAL INEQUITIES

EPA sees distributional inequalities that DOE has not adequately considered. One results from the fact that the residential price of electricity does not capture the complete cost for running systems that largely run at peak times. That is, except in select circumstances, residential customers purchase electricity based upon averages rates, not ''time-of-use'' rates. The actual costs of electricity at peak times are dramatically more and therefore, higher peak rates drive up the average costs. Less efficient equipment operating at peak times drives up the cost of electricity for all customers, including those of low income, who are less likely to have central air conditioning. According to 1997 Residential Energy Consumption Survey (RECS) microdata (the same data set used by DOE in their analysis), of the total 101 million households represented, approximately 46% have central air conditioning, but among poor households, only 25% have central air conditioning; just half the rate of presence among non-poor households (See Exhibit 2).

Also related to distributional equities and according to the RECS data, among households below the poverty level, about 60% rent their housing units. This is in contrast to 27% of above poverty level households that rent (See Exhibit 2). Therefore, low-income consumers, or those defined as ''poor'' in TSD Table 10.1, are not the ones to buy a central A/C or heat pump product, but they would be the one to pay the utility bill (or likely face increased rents if utilities were included in their rent) for the use of that product. Instituting a higher minimum efficiency standard will actually ensure that low-income consumers have lower utility bills, providing a benefit to this population.

MISINFORMATION ON PRODUCT AVAILABILITY

DOE justifies a lower SEER rule because the higher efficiency levels would put manufacturers out of business. However, according to the Air Conditioning and Refrigeration Institute (ARI) database of model combinations, many manufacturers already produce models that meet the 13 SEER requirements. This technology has been available for many years to large and small manufacturers alike. Although confidential ARI shipment information may not reflect large sales of high efficiency equipment, the publicly accessible ARI database of models shows extensive product availability. Over 7,000 air source heat pump model combinations and over 14,000 central air conditioner model combinations currently meet or exceed the 13 SEER level as listed by ARI.

The TSD (TSD page 8–2) describes a group of manufacturers that ''offer more substantial customer and dealer support and more advance products. To cover these higher operating expenses, this group attempts to ''sell-up'' to more efficient products or products with features that consumers and dealers value.'' With a higher standard, these manufacturers would not go out of business, but would rather continue to sell-up, to even higher efficiency levels or additional valued features.

Furthermore, results and upcoming plans for utility programs around the country also document the availability of 13 SEER and above products, as well as the demand for such products. Austin Energy's Residential Efficiency Program 2000–2001 gave rebates to single family existing homes for installation of split systems and heat pumps with efficiencies of 12 SEER and above. Rebates were staged: $150 for 12.0–12.9 SEER; $250 for 13.0–13.9 SEER; $400 for 14.0–14.9 SEER; and $500 for 15.0 and above. In total, 4,000 rebates averaging $312 were given to consumers. These numbers illustrate that a significant portion of the rebates given were for 13 SEER and above units.

In New Jersey, a 3-year rebate structure began in 2000 with a $370 rebate given for the installation of 13.0 SEER equipment and a $550 rebate given for 14.0 SEER equipment. A total of 14,000 rebates were given in the year 2000. As of August 2001, 8000 rebates were given out with approximately 6,000 of these units at the 14.0 SEER level. Overall results in New Jersey show that 27% of the market (1998–2000) are 13 SEER or higher with 60% of those being at the 14 SEER or higher levels.

The Long Island Power Authority (LIPA) instituted a program similar to the one in New Jersey offering rebates for installation of 13.0 and 14.0 SEER equipment. Results to date show that LIPA is on target to reach their goal of approximately 3,500 rebates for 13 SEER equipment. Approximately 80% of these rebates are for SEER 14 equipment. LIPA is expecting to ramp up to 5000 rebates in 2002. Overall, 17% of LIPA's market in 2000 is at 13 SEER or higher, with the market share for existing homes even higher at 22%.

Program plans for 2002 in Texas and California are geared toward equipment at 13 SEER and above. Reliant Energy in Southeast Texas is planning an incentive program

to target 13 SEER and above matched systems. California's two large municipal utilities (Sacramento Municipal Utility District and Los Angeles Department of Water and Power) and four investor owned utilities (San Diego Gas and Electric, Southern California Gas, Southern California Edison, and Pacific Gas and Electric), serving over 30,000,000 consumers, are planning rebate programs to assure California residents receive energy efficient equipment, measures, and practices that provide maximum benefit for the cost. These programs all revolve around 13 SEER equipment or higher. Actual incentive amounts are not yet available.

ORAL STATEMENT FOR DOUG MARTY, EXECUTIVE VICE PRESIDENT, ON BEHALF OF GOODMAN GLOBAL HOLDINGS COMPANY, U.S. DEPARTMENT OF ENERGY, OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY

PUBLIC HEARING REGARDING ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—SEPTEMBER 13, 2001

Assistant Secretary David Garman, and other members of the Department of Energy Staff . . . thank you for the opportunity to speak here today.

My name is Doug Marty and I am the Executive Vice President of Goodman Global Holdings out of Houston, Texas. Let me start by giving you a brief background of our company: Goodman is the second largest residential air conditioning and heating manufacturer in the United States. Founded in 1975 by the late Harold Goodman, Goodman remains entirely family-owned. We produce a complete line of residential and light commercial air conditioning and heating equipment with facilities in Houston, Texas as well as Dayton and Fayetteville, Tennessee. Name brands sold by Goodman include Amana®, Goodman®, GmC®, and Janitrol®.

As the nation's second largest manufacturer, my goal here today is to provide you with accurate information regarding the continuing debate to rollback the energy efficiency standard for air conditioners and heat pumps from a level of 13 SEER to 12 SEER. This debate has been fueled by inaccuracies and in some cases outright wrong information. Stronger energy efficiency standards do not place a major burden on manufacturers or limit consumer choice. They do not cause enormous increases in the size of the equipment. Finally, they do not impose unreasonable costs on consumers or hurt the elderly and low-income families. Let me explain.

Given recent events and for purposes of national security, we now face a time when it is imperative to explore alternatives that help to improve the efficiency of our energy use and build our domestic energy infrastructure. As we seek alternatives, it is important to consider options that strike a balance between both environmental and energy needs. One simple option is energy efficiency and conservation; specifically, energy efficiency standards for air conditioners should be strengthened to a level that provides consumers the most efficient technology available today at an affordable price and helps to strengthen our domestic resources. That level is 13 SEER.

Many opponents of the 13 SEER standard have argued that moving to the higher level would be a hardship on small manufacturers and that not all manufacturers have the capability to produce the more efficient equipment, thus limiting consumer choice. In fact, the 13 SEER technology has been available to both large and small manufacturers for approximately 15 years. The Air Conditioning and Refrigeration Institutes' own data shows that virtually all manufacturers produce 13 SEER equipment today. In reality, the only difference between a 10 SEER unit, a 12 SEER unit and a 13 SEER unit is a little more copper and aluminum used in manufacturing different sized coils. Given the fact that the units have equivalent technologies, at Goodman we run all of our equipment through the same facilities and assembly lines. Since Goodman and most other manufacturers currently produce the 13 SEER air conditioner, moving to the higher SEER will simply mean producing a higher volume. This will also mean more jobs at the industry level, thus improving the economy.

There has also been some confusion about the size of the 13 SEER equipment versus the 12 SEER equipment. It has been said that there is an enormous difference in the size of the units and with that a tremendously higher related cost for installation. It is clear that an increased efficiency standard will be established at least at a level of 12 over the current 10 SEER standard. If the decision is made to adopt the 12 SEER standard, the unit size will be slightly bigger and will require some structural modifications to install the indoor portion of the system including ductwork during installation of the unit. Once we acknowledge that there will be a standard that will likely require some structural modification, one must compare the 12 SEER unit to the 13 SEER unit. The difference between our 13 SEER and 12 SEER external equipment is only 3–5 inches in height. The internal equipment size for the 12 and 13 are similar, and there is almost no difference in the installation costs associated with a 13 SEER unit and a 12 SEER unit.

There have also been claims that the 13 SEER standard would cost consumers substantially more money than the proposed rollback to a 12 SEER standard. According to the DOE, the average difference in cost between a 13 SEER unit and a 12 SEER unit today is approximately $122. The difference in costs for Goodman units is comparable to this estimate. Since a 13 SEER unit is 8 percent more efficient that a 12 SEER unit, consumers will save more on their electric bills each and every month for the life of the unit. Thus, over an average life of a home cooling unit, the savings will easily cover the increase in cost, between a 12 SEER and a 13 SEER unit.

Moreover, history has shown us time and time again that once a standard is implemented, the market will drive prices down and make the more efficient equipment even more affordable for all consumers. How do we know this? From experience. In 1992, when the government implemented the efficiency standard at 10 SEER, the cost of the 10 SEER air conditioning unit dropped dramatically across the nation. The reason for the change in price is simple. Once the standard is set, more sales of that type of unit will occur and more volume is manufactured, thereby allowing the manufacturers to run their plant more efficiently and pass the savings on to the consumer. Since most consumers purchase units that perform at the minimum standard, it makes it that much more important to establish the standard at the correct level, 13 SEER.

Finally, in our opinion, Goodman has a marketing philosophy of selling in volume. The incremental cost to the manufacturer to produce a 13 SEER unit is only about $100 and we feel that the most efficient technology should be available to people of all income levels at an affordable price. Unfortunately, all manufacturers may not have this same marketing philosophy. Instead some manufacturers may be seeking protection of higher profit margins on their more efficient equipment. A 13 SEER standard would force all energy manufacturers to be truly competitive and provide all consumers with the most affordable energy efficient technology for air conditioners that is available today.

Just as the Administration has been supportive of energy efficiency and conservation measures, Goodman too supports the use of more energy-efficient appliances, specifically air conditioners and heat pumps. However, rather than rolling the energy efficiency standard back to 12 SEER, a 20 percent increase in efficiency, we support a 13 SEER standard, a 30 percent increase in efficiency.

A 13 SEER standard is achievable today and will certainly be achievable in 2006. A 13 SEER standard will significantly reduce energy consumption, cut utility costs for consumers and improve air quality by reducing the amount of air pollutants and greenhouse gases emitted from fossil-fueled electric power generating facilities.

In closing, Goodman strongly urges you to consider establishing a 13 SEER standard for residential air conditioners and heap pumps beginning in 2006. Again, it is the right thing to do for both the consumer and the environment.

The PRESIDING OFFICER. All time on the amendment has expired.

AMENDMENT NO. 3198

Mr. REID. Mr. President, it is my understanding we are now going to move to the debate on the Carper amendment. Is that a valid statement?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, I ask my two colleagues—the Senator from Delaware and the Senator from Michigan—if there is any way to pare that time down. We are very close to being able to include another amendment in the order prior to the votes. We are now scheduling 40 minutes. Is there any way we can do that in 30, 35, or 25?

Mr. LEVIN. Mr. President, I would be willing to accept whatever Senator CARPER is willing to make.

Mr. CARPER. Mr. President, if the Senator will yield, I am willing to go with 20 or 15.

Mr. REID. Mr. President, I ask unanimous consent that the time for the Carper amendment be taken from 40 minutes to 30 minutes evenly divided.

Mr. SPECTER. Mr. President, reserving the right to object, this is a very brief period of time, 40 minutes.

Mr. REID. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from Delaware.

Mr. CARPER. Mr. President, amendment No. 3198, which is at the desk, I believe is now in order under the previous order.

The PRESIDING OFFICER. The Senator is correct.

Mr. CARPER. Mr. President, I yield myself 5 minutes.

Today, the United States of America will consume some 7.8 million barrels of oil to power our cars, trucks, and vans. Between now and the year 2015, we are told by the Secretary of Energy that 7.8 million barrels of oil per day consumption for our cars, trucks, and vans will rise by some 36 percent to

over 10½ million barrels of oil per day. My own view is that it would be better for our country if we had no increase.

The amendment Senator SPECTER and I offer today is one that seeks to reduce by one-third—1 million barrels of oil per day—the amount of oil we are going to consume in 2015 to power our cars, trucks, and vans.

There are a variety of ways to achieve those savings. Earlier in this debate on the energy bill, Senator LEVIN and Senator BOND offered an amendment that sought to conserve oil with respect to our cars, trucks, and vans. I voted for it, as did Senator SPECTER. I voted for that amendment because I like a number of aspects of it. I will mention a few of those aspects.

No. 1, it has been said that we should use the Government's purchasing power to commercialize new technologies and provide tax credits to consumers to buy more fuel-efficient vehicles, and that the auto industry be given a reasonable lead time. There were a number of very positive aspects to the Levin-Bond amendment.

One thing that was missing in the Levin-Bond amendment was a measurable objective. During the time I served as Governor of Delaware for 8 years, we worked often with measurable objectives—job creation, improving credit rating, getting people off welfare, and reducing the rate of teen pregnancies. In setting the objectives, we tried not to micromanage the process. We set a measurable objective and tried to hold ourselves accountable to that measurable objective.

Today, in offering this amendment, we set a measurable objective. We don't change the Levin-Bond amendment. It is all there in place. We don't change the amendment offered earlier by the Senator from Georgia, Mr. MILLER, with respect to pickup trucks; that remains where it is.

But we say that in 2015 we want the consumption of oil for our cars, trucks, and vans consuming at that time 1 million barrels less than what it otherwise would be without this amendment.

Senator SPECTER, in joining me in this amendment, I thought offered a very constructive change. He suggested that in order to meet these savings, rather than just having the Secretary of Transportation issue a regulation to change the CAFE standard, why don't we ask the Secretary of Transportation to take into consideration a number of other factors, including the use of alternative forms of fuel.

The amendment, as amended by Senator SPECTER, does just that. The Secretary of Transportation, in issuing his regulations in the future, can require so much savings from CAFE changes, so much savings from alternative fuels, including biodiesel, soydiesel, ethanol, even diesel fuel derived from coal waste.

I think our obligation here is to set the objective. The responsibility of the Congress and the President is to say—and we now rely for almost 60 percent of our oil from abroad. We have a $400 billion trade deficit, and it is growing, and one-third of that is attributable to oil, which is troublesome, and the notion that we have global warming, and one-quarter of the carbon dioxide that goes up into the air which comes from cars, trucks, and vans—we have an obligation to set measurable objectives in terms of slowing growth and reserving oil.

This amendment does so in a flexible way. It says to the Secretary of Transportation very clearly: We expect you to rely on working with the auto industry on issuing a regulation that may involve CAFE changes. We also want to make sure we rely on alternative fuels.

For a State such as Delaware, we have a heavy reliance on the raising of soybeans. We like the idea of encouraging soydiesel.

For those who come from States where there is a lot of corn, there is the notion that the Secretary of Transportation can issue regulations to encourage the consumption of ethanol to help power our cars, trucks, and vans in the future.

For those who come from States with a fair amount of coal and coal waste, there is the notion that you can use that waste product to actually create a cleaner diesel fuel that can be used for reducing our reliance on oil, and particularly foreign oil.

I reserve the remainder of my time.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator has consumed 4 minutes 45 seconds.

Mr. CARPER. Thank you.

Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Delaware.

Mr. President, I support the Carper amendment because I think it is vitally important that the United States take affirmative steps to free ourselves from dependence upon OPEC oil. This amendment is a modest step in that direction.

While we are using 7.8 million barrels of oil a day to drive our vehicles—the estimate by the Department of Energy is that it will grow to 10.6 million barrels by the year 2015—the Carper-Specter amendment proposes to limit that growth to 9.6 million barrels. We are still going to use about 2 million barrels more. But this amendment makes the modest step of slowing the rate of increase by 1 million barrels of oil.

It is an intolerable situation, for us to be dependent upon OPEC oil. Today's New York Times carries a report about Crown Prince Abdullah of Saudi Arabia's proposed statement to the President concerning using Saudi oil as an ''oil weapon'' against the United States to demand that the United States change our policy in the Mideast. That is blackmail, pure and simple. And the United States ought not to put up with it and ought not to be in the position to have to put up with it.

Then the New York Times article goes on to point out that the Saudi position is that they are prepared to ''move to the right of bin Laden'' if necessary to make the United States capitulate on our policy.

Now, how much more arrogant and inflammatory can a comment be? Saudi Arabia produced bin Laden. Fifteen of the nineteen terrorists who attacked the United States on 9–11 were from Saudi Arabia. Now the Saudis are telling us they are not only embracing bin Laden but are prepared to move to the right of him if the United States does not yield to their demands on changing our policy in the Mideast.

In 1973, we faced lines at the gas station, and I think it would have been a blessing—perhaps a blessing in disguise—if we had not had relief from the oil embargo at that time, so that the United States, in 1973, would have been compelled to find alternative sources of energy. But we went back to our old ways, and the old ways were the easy ways and the ways of consuming vast quantities of OPEC oil.

I have opposed the CAFE standards; that is, for Congress to set a mandatory limit of so many miles per gallon, and earlier in this debate I voted against those CAFE standards.

I recall, about a decade ago, being asked to oppose CAFE standards for 1 year. Well, that year turned into another year, and yet another year. And, finally, it has been a decade or more, and we are still avoiding the imposition of CAFE standards, which is right because Congress ought not to micromanage how much gasoline is used.

But where you have a broad policy consideration, as the Carper-Specter amendment proposes, modestly, to reduce the rate of increase—and bear in mind, again, the statistics are that we use a little over 7 million barrels a day, and we will go to more than 10 million barrels a day by 2015—this amendment simply requires the Department of Energy and the Department of Transportation to find a formula to limit it to 9.6 million barrels a day.

American ingenuity can find the solution to the alternative fuel issue if we are put to the test we always have. After all, we put a man on the Moon. We invented and placed predators—robots—on the battlefield in defense of our troops. We have plans for a strategic defense initiative. The opportunities for scientific advances that will reduce our dependence on foreign oil are virtually limitless in our inventive society.

Back in 1973, when we had the long gas lines, there was blame attached to Israel and there was the undercurrent of anti-Semitism in the United States. Today, we see the outburst of anti-Semitism in Europe and in many parts of the world as a result of the Israeli policy and as a result of the United States backing Israeli policy.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator has used 5 minutes.

Mr. SPECTER. Madam President, I ask for 1 more minute.

Mr. CARPER. Madam President, I yield another minute to the Senator.

Mr. SPECTER. And this issue I raise with some reluctance. But there is no doubt that if we face an embargo and if we face the Saudis joining Iraq in using oil as a weapon, Israel will be blamed and anti-Semitism, which now bubbles just a little below the surface in many parts of the world, will rise to the surface and exceed it.

I think it is vital that the Congress establish a policy to be independent of OPEC oil. Today, in Pottsville, Pennsylvania, there is a plant which converts sludge into diesel fuel. If we set our minds to it, we can use the billions of tons of coal to find an alternative source of oil and not put up with the arrogance and the chutzpah of the Saudis telling us to change our policy in response to their blackmail. A strong statement to follow, Madam President.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 5 minutes.

Madam President, in March, the Levin-Bond amendment regarding increased fuel standards for cars and trucks was adopted by the Senate with a strong bipartisan vote of 62 to 38. The purpose of the Levin-Bond amendment was explicit. No. 1, we said we want to increase fuel economy. It was specified that way. As a matter of fact, we directed the Department of Transportation, in its rulemaking, to increase fuel economy. It is very explicit.

The other provisions of the bill that we adopted were aimed at protecting the environment, reducing our dependence on foreign oil, but to do this in a way which would not harm the domestic manufacturing industry.

We believe, those 62 of us who voted for it, you could accomplish all of these goals: You could reduce our dependence on foreign oil, you could reduce the amount of oil we use, you could increase fuel economy, you could protect the environment, and you could do that without undermining our economy. That was the purpose of the amendment, and that is the way we explicitly stated it.

The way we accomplish those goals becomes vitally important. That is what gets to the heart of the debate this afternoon. The amendment we adopted did it in two essential ways: First, we included some positive incentives. We provided that there would be joint research and development to a greater extent among Government, industry, and academia than there had been previously or than was proposed by the administration. And we provided for Government purchases of hybrids, requiring those purchases. Just the way we had previously done for the Defense Department in the Defense authorization bill, we did for the general Government in the Levin-Bond amendment.

We also indicated an interest in trying to provide greater tax incentives. And there will be an effort later on this afternoon to do exactly that: To increase the tax incentives that would be available to lead us to the advanced technologies, the advanced hybrids, and the fuel cells.

But then we also did it in a second way. We said there also should be increased CAFE requirements but—and this was central to the Levin-Bond amendment—those requirements should be set after an analysis by the Department of Transportation of all of the factors which should go into that decision—not just what is theoretically, technologically capable regardless of cost, but what are the technological capabilities, what are the costs, what are the impacts on safety, because we had the National Academy of Sciences say there is an impact on safety, that you lose lives when you reduce the weight of the vehicle.

We had additional factors. If I could just read through some of these factors: Economic practicability, the need of the United States to conserve energy, the desirability to reduce U.S. dependence on imported oil, the effects of average fuel economy on other standards, such as relative to passenger safety and air quality. These are all interrelated criteria. And then: What are the adverse effects on the competitiveness of domestic manufacturers? What are the effects on the level of employment in the United States, the costs and lead time? What is the potential of advanced technologies, such as hybrids and fuel cells, to contribute to the achievement of significant reductions in fuel consumption? And a very important one, No. 12: The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with average fuel economy standards adversely affects the availability of resources for the development of advanced technology in the future, for leap-ahead technologies.

We listed 12 factors that we said should be considered by the Department of Transportation prior to concluding what the new standard should be. We said: You have to increase it, but we want you to look at 12 factors.

What the Carper amendment does is it wipes out, it eliminates all of those factors. It sets a mandatory amount. You must reduce by 1 million barrels per day above what is the predicted use of gasoline for those years—by another agency, by the way—and that is what it does. It cuts the heart out of the Levin-Bond amendment.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. LEVIN. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. LEVIN. When the Senator from Delaware says it doesn't change Levin-Bond, I am afraid he is mistaken. He fundamentally changes the Levin-Bond amendment, which we adopted a month ago. The change he makes is that he says, forget the consideration of all those other factors. You have to reduce it by 1 million barrels a day regardless of the impact on safety, regardless of the effect on long-term investments by these short-term investments for near-term advances, forget economic practical ability, forget cost, forget all the other factors that we directed the National Highway Transportation Safety Administration to consider. Even though he leaves them—he does not strike them technically; he doesn't go out and cancel them; the words still remain—the heart of the matter is gone because the heart of the regulatory matter in Levin-Bond is that we say to the Department of Transportation, you have 15 months. You adopt standards increasing fuel economy. If you don't do it in 15 months, we are going to have an expedited procedure in the Senate and in the House to consider different proposals. If you do adopt standards, they, of course, would be subject to legislative review under a generic statute. Either way, we will have an expedited process to look at the recommended number of the Department of Transportation after they go through a regulatory process, not before.

This amendment prejudges the outcome of the very regulatory process which Levin-Bond put into law, if this law is ever signed.

I hope we will defeat this amendment for all those reasons.

I yield the floor.

Mr. BIDEN. Mr. President, I rise to comment on the vote in relation to amendment number 3198, which was offered by my friend and colleague from the State of Delaware, Senator CARPER. The vote by the Senate is on a motion to table the amendment. I believe that Senator CARPER should be given a straight up-or-down vote on his amendment, and for that reason, I shall vote against the motion to table.

Mr. FEINGOLD. Mr. President, I rise to oppose the amendment offered by the Senator from Delaware, Mr. CARPER. This amendment would add a new section to the conclusion of the fuel economy provisions previously adopted by the Senate, which I supported, and which were offered by my colleague from Michigan, Mr. LEVIN. The new section would require the Secretary of Transportation to issue, within 15 months, regulations to reduce the amount of oil consumed in passenger cars and light trucks in 2015 by 1,000,000 barrels per day compared to consumption without such regulations in place.

I understand and support the desire to reduce the use of oil in the transportation sector. Proponents of this amendment have argued that this amendment is flexible and would allow the Department of Transportation to take other actions, not necessarily through adjustments in the fuel economy program, to achieve oil savings. In

floor debate on this amendment, however, proponents have failed to clearly identify any other means of achieving oil savings other than fuel economy standards. I think there is broad consensus that new fuel economy standards would be the principle tool to achieve oil savings.

I have supported a new rulemaking on fuel economy with my vote in support of the Levin amendment. But the Senate has also passed an amendment on this bill, sponsored by the Senator from Georgia, Mr. MILLER, which I opposed. The Miller amendment weakens current law and exempt pickup trucks from any future increases in fuel economy standards. I feel that a new rulemaking on fuel economy should examine the possibility of fuel economy improvements in all motor vehicles, rather than exempt certain types of vehicles.

I considered the Carper amendment in light of the amendments we have already passes. Had the Carper amendment been included as part of the original Levin amendment, I might have felt differently on this matter. But now that the Senate has already passed the Levin amendment and the Miller amendment, supporting the Carper amendment is no longer a sound policy decision. To include an oil savings requirement, while excluding a whole category of vehicles from making fuel economy improvements, would be a poor policy decision and inconsistent. Certain vehicles should not have to achieve greater fuel efficiency because we chose to exempt a particular category of vehicles.

Fuel efficiency is a critically important issue for our country, and for Wisconsin. I am committed to achieving significant improvements in automobile and light truck fuel efficiency. I look forward to having many of those efficient vehicles built in Wisconsin. I will look forward to a bill in conference that strongly encourages the Department of Transportation to make those improvements.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. LEVIN. How much time remains on our side?

The PRESIDING OFFICER. Twelve and a half minutes.

Mr. LEVIN. Madam President, I yield 4 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. What we have here is an amendment that would reverse the decision on CAFE. Make no mistake about it. While I am sympathetic with the appeal, particularly from my friend from Pennsylvania, relative to how history is repeating itself as far as our increased dependence on imported oil, I can't help but look back at what we did in 1973. In 1973, we had the Yom Kippur War. We had a situation where our supply from the Mideast was interrupted. We had gas lines around the block. We were blaming each other. We set up the Strategic Petroleum Reserve to ensure that we would never, ever have a situation where we would became so vulnerable.

We thought at the time that, good heavens, if we ever increased 50 percent imports, that would be beyond the consideration of this country from the standpoint of national defense.

The problem with the Carper amendment specifically is it has no teeth in it. We are looking at a situation in the Mideast today where clearly oil is a weapon. We have seen statements suggesting they are going to stand behind bin Laden's theory. They are going to stand behind brother Saddam Hussein.

We had an opportunity a few days ago to debate this issue about reducing our dependence on foreign oil. It was called ANWR. It was substantial. It was defeated. Now we are talking about a smoke-and-mirrors issue where we have no enforcement mechanism.

As a consequence, the Carper amendment would have the same negative impacts on consumer safety, on vehicle costs, auto jobs, as the Kerry-McCain amendment. It would increase the cost of cars. Consumers choice is gone, thousands of jobs, reductions in the rate of growth and several thousand additional deaths and tens of thousands of injuries.

Make no mistake about one thing: We made a decision on CAFE. It was based on consideration of lives being saved by heavier automobiles. You can increase CAFE dramatically by smaller automobiles, but you pay the price. The decision that was made in this body on that issue was very clear. It was an overwhelming vote to reject Kerry-McCain based on consideration for the loss of human lives and injuries.

We are in the same position today. Make no mistake about it. Our vulnerability continues. It has been over a month since we voted 62 to 38 to adopt the Levin-Bond amendment on fuel economy standards. We chose at that time to leave the decisions on fuel economy to the experts.

This group is not an expert group. We choose to let the experts balance the need for increased fuel economy with safety and the needs of the American driving public. The Senate was right once not to pick a fuel economy number out of thin air. Let's not make that mistake now.

I urge my colleagues to reject the Carper amendment. Let's preserve American jobs and save lives on the Nations's highways. That was the basis for our last decision when we visited this issue.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Madam President, how much time on both sides remains?

The PRESIDING OFFICER. Eight and a half to the sponsors and 9 to the opponents.

Mr. LEVIN. I yield 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I rise today to oppose the Carper-Specter amendment. I join with my colleagues in opposition. I note this issue is of great importance to my colleague from Delaware. We have had a lot of conversations about the best approach to increasing fuel efficiency and decreasing our dependence on foreign oil. While I appreciate his effort and the amendment he is bringing forward, I believe the Carper-Specter approach has the same major flaws as the Kerry-Hollings amendment and sets, in fact, an arbitrary CAFE number. It just does it in a different way. It is not called CAFE, but it has the same effect.

The Carper-Specter amendment sets, in fact, an arbitrary number which is exactly what we were debating before. We wanted a process; we wanted NHTSA to have the opportunity to have a number of months to take into consideration all of the factors and not set an arbitrary number.

Our opponents, the makers of the amendment, say this is, in fact, not a CAFE number and that the amendment creates a modest and measurable objective for reducing vehicle gasoline consumption. Unfortunately, it is a mandate. It is a fuel economy mandate in the form of millions of barrels saved that is no less arbitrary than the Kerry-Hollings provision that was replaced in this bill.

Currently, the only regulatory authority that is available to the Department of Transportation to pursue such regulations through passenger and light truck fleets is the CAFE program. No matter what we call it, it is still CAFE. In essence, the amendment would impose this arbitrary oil reduction number as an additional requirement to the Department of Transportation as it sets the CAFE levels, thereby undermining and distorting the rulemaking considerations and the process that we put together through the Levin-Bond proposal.

I am particularly concerned because now that we have essentially eliminated pickup trucks from the equation, it puts even more pressure on the other light trucks and SUVs that are made in the United States, which involve the employment of literally hundreds of thousands of American workers. So it is even more distorted, given the amendment that passed in the prior discussion.

Unfortunately, this amendment undermines the Levin-Bond proposal, and I urge us to maintain our position of supporting the process set up in the Levin-Bond amendment, which passed by such a wide margin, because this sets up a positive, new set of rules and guidance from Congress and requires us to address CAFE's impact on a wide variety of issues in order to increase our fuel efficiency standards.

We have to look at safety, jobs, the environment, which is very important to all of us—particularly those of us in Michigan. It makes sure we don't have a discriminatory impact on the U.S.

automakers—I know that is of concern to all of us—so that we set the standard given all of these criteria.

By requiring an overriding oil reduction number, the amendment sets a hard target, on top of the other considerations, that the rulemaking would otherwise try to balance.

So I believe this amendment puts the cart before the horse. We have an excellent approach in front of us—I believe the best approach. We are not arguing that we should continue the freeze on CAFE. In fact, we are saying let's put in process the way to get to the new technologies. We have a combination of market incentives and investments in new technologies and tax incentives. We have in place the package of incentives, a requirement by NHTSA of deadlines in terms of numbered months and the criteria to look at. We direct them in a very specific way.

I urge my colleagues to oppose this amendment and leave in place our commitment to the process for raising fuel efficiency standards that have already been established in this bill through the Levin-Bond amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CARPER. Madam President, I yield to the Senator from Connecticut 3 minutes.

Mr. LIEBERMAN. Madam President, I rise to support the Carper-Specter amendment.

We come today to offer America a clear path away from foreign oil dependency and toward a newly energized economic future, and that is a new goal for fuel efficiency of cars and trucks.

America can start engineering itself out of its oil dependency if we make it a priority. This amendment would do just that by setting a bold but realistic goal of reducing our projected dependence on oil by one million barrels a day by 2015, thereby reducing our reliance on imported oil.

There's no debate that we must change the status quo. According to the Energy Information Administration, in 2001, the U.S. consumed 18 million barrels of oil per day. Automobiles and light trucks used 68 percent of the total, or 12.25 million barrels per day. The EIA estimates total U.S. consumption of between 25 and 28 million barrels per day by 2020.

The majority of that oil comes from other nations. In 2001, the U.S. imported 9.1 million barrels of oil per day. Approximately 1.65 million barrels per day came from Saudi Arabia and 0.82 million barrels per day came from Iraq.

The question before us today is, Do we keep our blinders on and barrel along doing business as usual, knowing full well that we're headed in the wrong direction, or do we have the foresight to change course?

President Bush and my colleagues on the other side of the aisle know we have no choice but to change course. On February 25 of this year, the President said, ''It's important for Americans to remember . . . that America imports more than 50 percent of its oil—more than 10 million barrels a day. And the figure is rising . . . This dependence is a challenge to our economic security, because dependence can lead to price shocks and fuel shortages. And this dependence on foreign oil is a matter of national security. To put it bluntly, sometimes we rely upon energy sources from countries that don't particularly like us.''

We consume a quarter of the world's oil and have about three percent of its reserves—so even if we allowed drilling in the Arctic Refuge, the Rockies, and right here beneath the Capitol dome, the nations from which we import oil would still have us over a barrel. Please indulge my oil-dependent puns; in the spirit of this amendment, I am trying to get as much mileage out of them as possible.

In contrast, Mr. President, the fuel efficiency gains we're proposing today cannot be exhausted, they cannot run dry, and they will begin to shift our economy away from its usage of oil. These steps are the best way to substantially reduce our reliance on foreign oil.

To quote again from the President, ''It's also important to realize that the transportation sector consumes more than two-thirds of all the petroleum used in the United States, so that any effort to reduce consumption must include ways to safely make cars and trucks more fuel efficient.''

I couldn't agree more. Compared to proposals to open precious places to oil exploration, this measure would achieve more at a monumentally smaller price to America. In fact, the entrepreneurship, creativity and ingenuity that would be unleashed when companies strive to hit this target would create jobs. They would spur economic growth. And, of course, they would help repair the environment in the process—rather than continue to contribute to air pollution, global warming, and the degradation that often goes along with drilling for oil in natural places.

These proposals, Mr. President, are also more than feasible. Earlier this year, the National Academies of Science concluded that current technology was available to achieve efficiency gains that far exceed those required in this amendment, and that was even excluding consideration of the hybrid technology that is on the market right now. We must put our faith in the innovative genius of American industry to meet the challenge that this amendment poses.

Mr. President, this amendment also provides the lead-time and flexibility our industry needs to achieve these goals. It does not micromanage where or how these savings should occur, but rather would provide maximum flexibility to the appropriate agencies in achieving the objective of using, and therefore importing, less oil. It leaves intact all of the provisions that are now included in the underlying bill.

In short, this proposal has been carefully crafted to address the concerns raised by Senators in both parties regarding the previous CAFE amendment. I hope that the Senate finds this to be a much-improved amendment that can be broadly embraced.

Mr. President, the importance of reducing our reliance on foreign oil has been echoed throughout this chamber again and again over the last few weeks. I could quote from scores of my colleagues on both sides of the aisle who have decried the problem and put the highest priority on finding a solution.

But when it comes down to it, we have failed to prove that we're willing to lead America to a better way. This must end. We must re-energize our commitment to reach bi-partisan consensus on weaning our economy off of fossil fuels. The process will by definition be a gradual one—so we must start now.

Mr. President, there are 99 barrels of oil on the wall, 99 barrels of oil. Most of them, no matter how much we explore, come from overseas. If just one of those barrels should happen to fall, we'll still need all 99 barrels of oil on the wall, and they'll still mostly come from overseas. But if we as a nation can change our craving for that oil—get on the efficiency wagon, so to speak—so that we only need 90 or 80 or 70 and shrinking barrels of oil, we can alter that repetitive refrain.

The question is: Do we have the drive to get there? Do we have the will? If we have the will, American ingenuity can and will find the way. No one should have any doubt about that. But it takes leadership from Washington, and that is what I hope we in the Congress are willing to provide, beginning with this amendment.

Madam President, again, I think we all agree on the problem. The problem is that America is dangerously dependent on foreign oil. No matter how great our military might is, how strong our economy is, that dependence upon foreign oil makes us vulnerable.

The only way to break our dependence on foreign oil is to diminish our dependence on oil. We just don't have enough of it in reserve. One of the most tried and true American ways to deal with problems of this kind is through thrift, efficiency, conservation, and a better use of resources.

I grew up with a slogan, as I bet a lot of Members did, which is ''waste not, want not.'' We are using fuel in a wasteful way.

This amendment is, in my opinion, not in contradiction to the Levin-Bond amendment. Nothing in the Levin-Bond amendment would be undermined or distorted by the rulemaking considerations that are effected by this Carper-Specter amendment. The language is respectful of Levin-Bond and simply adds the oil-saving target of reducing America's use of oil by 1 million barrels a day by 2015. You remember the movie ''Field of Dreams,'' where it was

said, ''if you build it, they will come.'' We are saying affirmatively, if we set a standard America will meet that standard, and probably go beyond it.

If we do not, we will continue to make ourselves vulnerable by being dependent on a source of fuel that we do not control. We consume a quarter of the world's oil. We have about 3 percent of its reserves. So even if we allowed drilling in the Arctic Refuge, the Rockies, and perhaps right here beneath the Capitol dome, the nations from which we import oil would still have us—if you will allow an oil-dependent pun—over a barrel.

In contrast, the fuel efficiency gains proposed in this amendment cannot be exhausted, cannot run dry, and will begin to shift our economy away from its dependency on oil. We have the technological capacity to do it if law drives that technology.

Earlier this year, the National Academy of Sciences concluded that current technology was available to achieve the efficiency gains that far exceed those required in this amendment. That even excluded consideration of the hybrid technology on the market right now, which the automakers cannot produce fast enough for the consumers who want to buy them.

We have to put our faith in the innovative genius of American industry to meet the challenge that this amendment poses, and I am sure they will not only meet it, they will surpass it.

I yield the floor.

The PRESIDING OFFICER. Five minutes remain on each side.

Who yields time? If neither side yields time, time will be charged equally.

Mr. CARPER. Madam President, I yield 2 minutes to the Senator from Pennsylvania, Mr. SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I voted for the Levin-Bond amendment on that 68-to-32 vote. But the Carper-Specter amendment is not inconsistent with that at all. We simply establish a consistent standard. We are not establishing a CAFE standard. We are just asking that there be a national policy to limit U.S. dependence on foreign oil.

Today, this week, this month is not the first time that I have expressed my concern about our undue dependence on foreign oil. I ask unanimous consent that my letter to President Clinton, dated April 11, 2000, and my letter to President Bush, dated April 25, 2001, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 11, 2000.

President WILLIAM JEFFERSON CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In light of the very serious problems caused by the recent increase in oil prices, we know you will share our view that we should explore every possible alternative to stop OPEC and other oil-producing states from entering into agreements to restrict oil production in order to drive up the price of oil.

This conduct is nothing more than an old-fashioned conspiracy in restraint of trade which has long been condemned under U.S. law, and which should be condemned under international law.

After some considerable research, we suggest that serious consideration be given to two potential lawsuits against OPEC and the nations conspiring with it:

(1) A suit in Federal district court under U.S. antitrust law.

(2) A suit in the International Court of Justice at the Hague based, perhaps, upon an advisory opinion under ''the general principles of law recognized by civilized nations,'' which includes prohibiting oil cartels from conspiring to limit production and raise prices.

(1) A suit in Federal district court under U.S. antitrust law. A case can be made that your Administration can sue OPEC in Federal district court under U.S. antitrust law. OPEC is clearly engaging in a ''conspiracy in restraint of trade'' in violation of the Sherman Act (15 U.S.C. Sec. 1). The Administration has the power to sue under 15 U.S.C. Sec. 4 for injunctive relief to prevent such collusion.

In addition, the Administration should consider suing OPEC for treble damages under the Clayton Act (15 U.S.C. Sec. 15a), since OPEC's behavior has caused an ''injury'' to U.S. ''property.'' After all, the U.S. government is a major consumer of petroleum products and must now pay higher prices for these products. In *Reiter v. Sonotone Corp.*, 442 U.S. 330 (1979), the Supreme Court held that he consumers who were direct purchasers of certain hearing aides who alleged that collusion among manufacturers had led to an increase in prices had standing to sue those manufacturers under the Clayton Act since ''a consumer deprived of money by reason of allegedly anticompetitive conduct is injured in 'property' within the meaning of [the Clayton Act].'' Indirect purchasers would appear to be precluded from suit, even in a class action, under *Illinois Brick v. Illinois*, 431 U.S. 720 (1977), but this would not bar the United Sates Government, as a direct purchaser, from having the requisite standing.

One potential obstacle to such a suit is whether the Foreign Sovereign Immunities Act (''FSIA'') provides OPEC, a group of sovereign foreign nations, with immunity from suit in U.S. courts. To date, there has been a ruling on this issue in only one case. In *International Association of Machinists v. OPEC*, 477 F. Supp. 553 (1979), the District Court for the Central District of California held that the nations which comprise OPEC were immune from suit in the United States under the FSIA. We believe that this opinion was wrongly decided and that other district courts, including the D.C. District, can and should revisit the issue.

This decision in *Int. Assoc. of Machinists* turned on the technical issue of whether or not the nations which comprise OPEC are engaging in ''commercial activity'' or ''governmental activity'' when they cooperate to sell their oil. If they are engaging in ''governmental activity,'' then the FSIA shields them from suit in U.S. courts. If, however, these nations are engaging in ''commercial activity,'' then they are subject to suit in the U.S. The California District Court held that OPEC activity is ''governmental activity.'' We disagree. It is certainly a governmental activity for a nation to regulate the extraction of petroleum from its territory by ensuring compliance with zoning, environmental and other regulatory regimes. It is clearly a commercial activity, however, for these nations to sit together and collude to limit their oil production for the sole purpose of increasing prices.

The 9th Circuit affirmed the District Court's ruling in *Int. Assoc. of Machinists* in 1981 (649 F.2d 1354), but on the basis of an entirely different legal principle. The 9th Circuit held that the Court could not hear this case because of the ''act of state'' doctrine, which holds that a U.S. court will not adjudicate a politically sensitive dispute which would require the court to judge the legality of the sovereign act of a foreign state.

The 9th Circuit itself acknowledged in its *Int. Assoc. of Machinists* opinion that ''The [act of state] doctrine does not suggest a rigid rule of application,'' but rather application of the rule will depend on the circumstances for each case. The Court also noted that, ''A further consideration is the availability of internationally-accepted legal principles which would render the issues appropriate for judicial disposition.'' The Court then quotes from the Supreme Court's opinion in *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398 (1964).

''It should be apparent that the greater of codification or consensus concerning a particular area of international law, the more appropriate it is for the judiciary to render decisions regarding it, since the courts can then focus on the application of an agreed principle to circumstances of fact rather than on the sensitive task of establishing a principle not inconsistent with the national interest or with international justice.''

Since the 9th Circuit issued its opinion in 1981, there have been major developments in international law that impact directly on the subject matter at issue. As we discuss in greater detail below, the 1990's have witnessed a significant increase in efforts to seek compliance with basic international norms of behavior through international courts and tribunals. In addition, there is strong evidence of an emerging consensus in international law that price fixing by cartels violates such international norms. Accordingly, a court choosing to apply the act of state doctrine to a dispute with OPEC today may very well reach a different conclusion than the 9th Circuit reached almost twenty years ago.

You should also examine whether the anticompetitive conduct of the international oil cartel is being effectuated by private companies who are subject to the enforcement of U.S. antitrust laws (for example, former state oil companies that have now been privatized) rather than sovereign foreign states. If such private oil companies are determined to in fact be participating in the anticompetitive conduct of the oil cartel, then we would urge that these companies be named as defendants in an antitrust lawsuit in addition to the OPEC members.

(2) A suit in the International Court of Justice at the Hague based upon ''the general principles of law recognized by civilized nations,'' which includes prohibiting oil cartels from conspiring to limit production and raise prices. In addition to such domestic antitrust actions, we believe you should give serious consideration to bringing a case against OPEC before the International Court of Justice (the ''ICJ'') at the Hague. You should consider both a direct suit against the conspiring nations as well as a request for an advisory opinion from the Court through the auspices of the U.N. Security Council. The actions of OPEC in restraint of trade violate ''the general principles of law recognized by civilized nations.'' Under Article 38 of the Statute of the ICJ, the Court is required to apply these ''general principles'' when deciding cases before it.

This would clearly be a cutting-edge lawsuit, making new law at the international

level. But there have been exciting developments in recent years which suggest that the ICJ would be willing to move in this direction. In a number of contexts, we have seen a greater respect for and adherence to fundamental international principles and norms by the world community. For example, we have seen the establishment of the International Criminal Court in 1998, the International Criminal Tribunal for Rwanda in 1994, and the International Criminal Tribunal for the former Yugoslavia in 1993. Each of these bodies has been active, handing down numerous indictments and convictions against individuals who have violated fundamental principles of human rights. For example, as of December 1, 1999 the Yugoslavia tribunal alone had handed down 91 public indictments.

Today, adherence to international principles has spread from the tribunals in the Hague to individual nations around the world. Recently, the exiled former dictator of Chad, Hissene Habre, was indicted in Senegal on charges or torture and barbarity stemming from his reign, where he allegedly killed and tortured thousands. This case is similar to the case brought against former Chilean dictator Augusto Pinochet by Spain on the basis of his alleged atrocities in Chile. At the request of the Spanish government, Pinochet was detained in London for months until an English court determined that he was too ill to stand trial.

The emerging scope of international law was demonstrated in an advisory opinion sought by the U.N. General Assembly in 1996 to declare illegal the use or threat to use nuclear weapons. Such an issue would ordinarily be thought beyond the scope of a judicial determination given the doctrines of national sovereignty and the importance of nuclear weapons to the defense of many nations. The ICJ ultimately ruled eight to seven, however, that the use or threat to use nuclear weapons ''would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law.'' The fact that this issue was subject to a decision by the ICJ, shows the rapidly expanding horizons of international law.

While these emerging norms of international behavior have tended to focus more on human rights than on economic principles, there is one economic issue on which an international consensus has emerged in recent years—the illegitimacy of price fixing by cartels. For example, on April 27, 1998, the Organization for Economic Cooperation and Development issued an official ''Recommendation'' that all twenty-nine members nations ''ensure that their competition laws effectively halt and deter hard core cartels.'' The recommendation defines ''hard core cartels'' as those which, among other things, fix prices or establish output restriction quotas. The Recommendation further instructs member countries ''to cooperate with each other in enforcing their laws against such cartels.''

On October 9, 1998, eleven Western Hemisphere countries held the first ''Antitrust Summit of the Americas'' in Panama City, Panama. At the close of the summit, all eleven participants issued a joint communique in which they expressed their intention ''to affirm their commitment to effective enforcement of sound competition laws, particularly in combating illegal price-fixing, bid-rigging, and market allocations.'' The communique further expresses the intention of these countries to ''cooperate with one another . . . to maximize the efficacy and efficiency of the enforcement of each country's competition laws.'' One of the countries participating in this communique, Venezuela, is a member of OPEC.

The behavior of OPEC and other oil-producing nations in restraint of trade violates U.S. antitrust law and basic international norms, and it is injuring the United States and its citizens in a very real way. Consideration of such legal action could provide an inducement to OPEC and other oil-producing countries to raise production to head off such litigation.

We hope that you will seriously consider judicial action to put an end to such behavior.

ARLEN SPECTER,
HERB KOHL
CHARLES SCHUMER,
MIKE DEWINE,
STROM THURMOND,
JOE BIDEN

U.S. SENATE,
Washington, DC, April 25, 2001.

President GEORGE WALKER BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In light of the energy crisis and the high prices of OPEC oil, we know you will share our view that we must explore every possible alternative to stop OPEC and other oil-producing states from entering into agreements to restrict oil production in order to drive up the price of oil.

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After some research, we suggest that serious consideration be given to two potential lawsuits against OPEC and the nations conspiring with it:

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(2) A suit in the International Court of Justice at the Hague based upon ''the general principles of law recognized by civilized nations.''

(1) A suit in Federal district court under U.S. antitrust law. A strong case can be made that your Administration can sue OPEC in Federal district court under U.S. antitrust law. OPEC is clearly engaging in a ''conspiracy in restraint of trade'' in violation of the Sherman Act (15 U.S.C. Sec. 1). The Administration has the power to sue under 15 U.S.C. Sec. 4 for injunctive relief to prevent such collusion.

In addition, the Administration has the power to sue OPEC for treble damages under the Clayton Act (15 U.S.C. Sec. 15a), since OPEC's behavior has caused an ''injury'' to U.S. ''property.'' After all, the U.S. government is a consumer of petroleum products and must now pay higher prices for these products. In *Reiter* v. *Sonotone Corp*, 442 U.S. 330 (1979), the Supreme Court held that the consumers of certain hearing aids who alleged that collusion among manufacturers had led to an increase in prices had standing to sue those manufacturers under the Clayton Act since ''a consumer deprived of money by reason of allegedly anticompetitive conduct is injured in 'property' within the meaning of [the Clayton Act].''

One issue that would be raised by such a suit is whether the foreign Sovereign Immunities Act (''FSIA'') provides OPEC, a group of sovereign foreign nations, with immunity from suit in U.S. courts. To date, only one Federal court, the District Court for the Central District of California, has reviewed this issue. In *International Association of Machinists* v. *OPEC*, 477 F. Supp. 553 (1979), the Court held that the nations which comprise OPEC were immune from suit in the United Stats under the FSIA. We believe that this opinion was wrongly decided and that other District courts, including the D.C. District, can and should revisit the issue.

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The 9th Circuit itself acknowledged in its *Int. Assoc. of Machinists* opinion that ''The [act of state] doctrine does not suggest a rigid rule of application,'' but rather application of the rule will depend on the circumstances of each case. The Court also noted that, ''A further consideration is the availability of internationally-accepted legal principles which would render the issues appropriate for judicial disposition.'' The court then quotes from the Supreme Court's opinion in *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398 (1964):

''It should be apparent that the greater the degree of codification or consensus concerning a particular area of international law, the more appropriate it is for the judiciary to render decision regarding it, since the courts can then focus on the application of an agreed principle to circumstances of fact rather than on the sensitive take of establishing a principle not inconsistent with the national interest or with international justice.''

Since the 9th circuit issued its opinion in 1981, there have been major developments in international law that impact directly on the subject matter at issue. As we discuss in greater detail below, the 1990's have witnessed a significant increase in efforts to seek compliance with basic international norms of behavior through international courts and tribunals. In addition, there is strong evidence of an emerging consensus in international law that price fixing by cartels violates such international norms. Accordingly, a court choosing to apply the act of state doctrine to a dispute with OPEC today may very well reach a different conclusion than the 9th Circuit reached almost twenty years ago.

(2) A suit in the International Court of Justice at The Hague based upon ''the general principles of law recognized by civilized nations.'' In addition to such domestic antitrust actions, we believe you should give serious consideration to bringing a case against OPEC before the International Court of Justice (the ''ICJ'') at The Hague. You should consider both a direct suit against the conspiring nations as well as a request for an advisory opinion from the Court through the auspices of the U.N. Security Council. The actions of OPEC in restraint of trade violate ''the general principles of law recognized by civilized nations.'' Under Article 38 of the Statute of the ICJ, the Court is

required to apply these ''general principles'' when deciding cases before it.

This would clearly be a cutting-edge lawsuit, making new law at the international level. But there have been exciting developments in recent years which suggest that the ICJ would be willing to move in this direction. In a number of contexts, we have seen a greater respect for and adherence to fundamental international principles and norms by the world community. For example, we have seen the establishment of the International Criminal Court in 1998, the International Criminal Tribunal for Rwanda in 1994, and the International Criminal Tribunal for the former Yugoslavia in 1993. Each of these bodies has been active, handing down numerous indictments and convictions against individuals who have violated fundamental principles of human rights.

Today, adherence to international principles has spread from the tribunals in The Hague to individual nations around the world. The exiled former dictator of Chad, Hissene Habre, was indicted in Senegal on charges of torture and barbarity stemming from his reign, where he allegedly killed and tortured thousands. This case is similar to the case brought against former Chilean dictator Augusto Pinochet by Spain on the basis of his alleged atrocities in Chili. At the request of the Spanish government, Pinochet was detained in London for months until an English court determined that he was too ill to stand trial.

While these emerging norms of international behavior have tended to focus more on human rights than on economic principles, there is one economic issue on which an international consensus has emerged in recent years—the illegitimacy of price fixing by cartels. For example, on April 27, 1998, the Organization for Economic Cooperation and Development issued an official ''Recommendation'' that all twenty-nine member nations ''ensure that their competition laws effectively halt and deter hard core cartels.'' The Recommendation defines ''hard core cartels'' as those which, among other things, fix prices or establish output restriction quotas. The Recommendation further instructs member countries ''to cooperate with each other in enforcing their laws against such cartels.''

On October 9, 1998, eleven Western Hemisphere countries held the first ''Antitrust Summit of the Americas'' in Panama City, Panama. At the close of the summit, all eleven participants issued a joint communique in which they express their intention ''to affirm their commitment to effective enforcement of sound competition laws, particularly in combating illegal price-fixing, bid-rigging, and market allocation.'' The communique further expresses the intention of these countries to ''cooperate with one another . . . to maximize the efficacy and efficiency of the enforcement of each country's competition laws.''

The behavior of OPEC and other oil-producing nations in restraint of trade violates U.S. antitrust law and basic international norms, and it is injuring the United States and its citizens in a very real way.

We hope that you will seriously consider judicial action to put an end to such behavior.

ARLEN SPECTER,
CHARLES SCHUMER,
HERB KOHL,
STROM THURMOND,
MIKE DEWINE

Mr. SPECTER. The Federal lawsuit, Prewitt v. OPEC, establishes an antitrust violation by OPEC, and my letters to Presidents Clinton and Bush set forth legal mechanisms for dealing with OPEC where they engage in a conspiracy in restraint of trade and conspiracy to limit production and raise prices.

I ask unanimous consent that an article from the Harrisburg Patriot be printed in the RECORD. It sets out in some detail a way that the sludge can be turned into fuel to reduce our dependence on foreign oil.

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

[From the Patriot-News, Jan. 4, 2002]

COAL-TO-DIESEL IDEA PROMISING

Whatever else it has meant for America, the Sept. 11 terrorism underscored the folly of U.S. dependence on Middle Eastern oil.

And while some people believe it mandates drilling for petroleum in the Arctic National Wildlife Refuge and other environmentally sensitive areas, others see the logic in developing legitimate alternative fuels, utilizing the kind of ingenuity and entrepreneurial skills on which America was built.

Unfortunately, expanded oil drilling and alternative fuel development are tied together in the energy package that remains bottled up in the U.S. Senate, where drilling in ANWR is a key item of debate. Majority Leader Tom Daschle, D–S.D., who sets the agenda, opposes ANWR drilling, which is supported by the president and included in the energy bill approved by the House last summer.

What that means for Pennsylvania in particular is that construction of a $450 million plant in Schuylkill County to convert coal waste into diesel fuel is on hold.

John W. Rich, Jr., scion of a family that made its fortune in mining coal, wants to apply proven South African technology to produce 5,000 barrels a day of sulfur-free diesel fuel and eliminate 1 million tons a year of environmentally damaging coal waste from Pennsylvania's coal regions.

Rich's proposal has won political support and tax credits from the state and a $7.8 million startup grant from the federal government. He hopes that the energy bill, if it ever passes, will provide up to $100 million more, completing a financial package that includes investments from Chevron-Texaco and a Bechtel affiliate.

America's oil resources are so limited and difficult to tap that some foreign oil will always be required here. On the other hand, coal-waste conversion to diesel, a proven technology, would make use of a ready supply of coal and coal waste in Pennsylvania that, in oil equivalent, exceeds the known petroleum reserves of Iraq.

Not only would this technology cut into the need for foreign oil, but its cost, in comparison to the expense of drilling in ANWR and piping the crude oil south to the Lower 48, quite likely would underscore the folly of that proposal.

The Senate needs to settle on a compromise and pass an energy bill to make practical alternatives to Middle Eastern oil a reality.

Mr. SPECTER. Madam President, I think if every one of our colleagues read the story on the front page of the New York Times today, there would be no doubt about the insistence of this body to reduce our dependence on OPEC oil. To have Crown Prince Abdullah of Saudi Arabia release through a spokesman what he intends to say to the President of the United States—that Saudi Arabia will use oil as an oil weapon, as Saddam Hussein has done is outrageous. The spokesman is quoted as saying that Saudi Arabia is prepared to go to the right of bin Laden, and that Saudi Arabia is prepared to fly to Baghdad and embrace Saddam Hussein like a brother.

I ask unanimous consent that the New York Times article ''Saudi To Warn Bush of Rupture Over Israel Policy'' be printed in the RECORD.

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

[From The New York Times, Apr. 25, 2002]

SAUDI TO WARN BUSH OF RUPTURE OVER ISRAEL POLICY

(By Patrick E. Tyler)

HOUSTON, APR. 24.—Crown Prince Abdullah of Saudi Arabia is expected to tell President Bush in stark terms at their meeting on Thursday that the strategic relationship between their two countries will be threatened if Mr. Bush does not moderate his support for Israel's military policies, a person familiar with the Saudi's thinking said today.

In a bleak assessment, he said there was talk within the Saudi royal family and in Arab capitals of using the ''oil weapon'' against the United States, and demanding that the United States leave strategic military bases in the region.

Such measures, he said, would be a ''strategic debacle for the United States.''

He also warned of a general drift by Arab leaders toward the radical politics that have been building in the Arab street.

The Saudi message contained undeniable brinkmanship intended to put pressure on Mr. Bush to take a much larger political gamble by imposing a peace settlement on Israeli and Palestinians.

But the Saudi delegation also brought a strong sense of the alarm and crisis that have been heard in Arab capitals.

''It is a mistake to think that our people will not do what is necessary to survive,'' the person close to the crown prince said, ''and if that means we move to the right of bin Laden, so be it; to the left of Qaddafi, so be it; or fly to Baghdad and embrace Saddam like a brother, so be it. It's damned lonely in our part of the world, and we can no longer defend our relationship to our people.''

Whatever the possibility of bluster, it is also clear that Abdullah represents not just Saudi Arabia but also the broader voice of the Arab world, symbolized by the peace plan he submitted and that was endorsed at an Arab summit meeting in March.

Those familiar with the prince's ''talking points'' said he would deliver a blunt message that Mr. Bush is perceived to have endorsed—despite his protests to the contrary—Prime Minister Ariel Sharon's military incursion into the West Bank.

Abdullah believes Mr. Bush has lost credibility by failing to follow through on his demand two weeks ago that Mr. Sharon withdraw Israeli troops from the West Bank and end the sieges of Yasir's compound in Ramallah and of the Church of the Nativity in Bethlehem.

If those events occur and Mr. Bush makes a commitment ''to go for peace'' by convening an international conference, as his father did after the Persian Gulf war, to press for a final settlement and a Palestinian state, the Saudi view would change dramatically.

But those close to the Saudi delegation said there was no expectation that Mr. Bush is prepared to apply the pressure necessary to force such an outcome.

''The perception in the Middle East, from the far left to the far right, is that America

is totally sponsoring Sharon—not Israel's policies but Sharon's policies—and anyone who tells you less is insulting your intelligence,'' the person familiar with Abdullah's thinking said.

Western analysts see the prince as a blunt Bedouin leader whose initiative is regarded by many Arabs as a gesture worthy of the late Egyptian leader Anwar el-Sadat, who flew to Jerusalem in 1973 to sue for peace with Menachem Begin. Abdullah's offer, now the Arab world's offer, calls for recognition of Israel and ''normal relations'' in return for a Palestinian state on lands Israel occupied in 1967.

The Saudi assessment was apparently being conveyed through several private channels.

On Tuesday President Bush's father had lunch with the Saudi foreign minister, Saud al-Faisal, and the kingdom's longtime ambassador to Washington, Prince Bandar bin Sultan. Their specific message could not be learned, but in the familial setting, where Barbara Bush was also the hostess for Princess Haifa, Prince Bandar's wife, the strong strategic and personal ties of the Persian Gulf war that characterized Saudi-American relations a decade ago was a message in itself.

Abdullah, in a luncheon today with Vice President Dick Cheney, was to convey the seriousness with which he regards the Thursday meeting with President Bush as a ''last chance'' for constructive relations with the Arab world.

Secretary of Defense Donald H. Rumsfeld and Gen. Richard B. Myers, chairman of the joint chiefs of staff, also flew to Houston to join in last-minute discussions before the summit meeting. A senior official in Washington said Mr. Rumsfeld and General Myers were dispatched to brief the prince personally on the American accomplishments in Afghanistan and in the broader war on terrorism.

''The idea was, if he thought we were strong in Desert Storm, we're 10 times as strong today,'' one official said. ''This was to give him some idea what Afghanistan demonstrated about our capabilities.''

United States military commanders in the Persian Gulf region have been building up command centers and equipment depots in Qatar and Kuwait in recent months in anticipation of a possible breach with Riyadh.

Saudi officials assert that American presidents since Richard M. Nixon have been willing to speak more forcefully to Israeli leaders than the current president when American interests were at stake.

''If Bush freed Arafat and cleared Bethlehem, it would be a big victory, show a stiffening of spine,'' the person close to Abdullah said. ''But incremental steps are no longer valid in these circumstances,'' meaning that Mr. Bush would have to follow up with a major push to fulfill the longstanding expectation of the Palestinians for statehood.

The mood in the Saudi camp was that of gloom and anxiety in private even as Saudi and American officials went ahead with preparations for a warm public encounter with the Bush family.

On Friday, after his meeting with President Bush at his home in Crawford, Abdullah is to take a long train ride to College Station, the central Texas town where the former President Bush will be host at his presidential library. On Saturday, Saudi's Arabia's state oil company is gathering the luminaries of the international energy industry to dine with Abdullah and his party.

But the person close to the prince said that if the summit talks went badly, Abdullah might not complete his stay in Texas. Instead, he might return directly to Riyadh and call for a summit meeting of the Organization of the Islamic Conference, to report to its 44 leaders, who represent 1.2 billion Muslims.

''He wants to say, 'I looked the president of the U.S. in the eye and have to report that I failed,'' this person said. His message to the Arabs will be, ''Take the responsibility in your own hands, my conscience is clear, before history, God, religion, country and friends.''

The person close to Abdullah pointed out that Saudi Arabia's recent assurances that it would use its surplus oil-producing capacity to blunt the effects of Saddam Hussein's 30-day suspension of Iraqi oil exports could quickly change.

That Saudi pledge ''was based on a certain set of assumptions, but if you change the assumptions, all bets are off,'' he said. ''We would no longer say what Saddam said was an empty threat, because there come desperate times when you give the unthinkable a chance.''

Abdullah is reported to be bitter over the White House's assertion that the president is taking a balanced approach to the Israeli-Palestinian conflict, and he wants to evaluate in person whether Mr. Bush understands how his actions are being perceived in the Arab world.

''This is not a mistake or a policy gaffe,'' the person close to Abdullah said, referring to Mr. Bush's approach. ''He made a strategic, conscious decision to go with Sharon, so your national interest is no longer our national interest; now we don't have joint national interests. What it means is that you go your way and we will go ours, economically, militarily and politically—and the antiterror coalition would collapse in the process.''

Mr. SPECTER. We are heading for a cataclysm. We are headed for a cataclysmic, destructive process. When the oil industry in Iran was nationalized in the early 1950s and the Anglo-Iranian Oil Company was evicted by an act of the Iranian parliament, Great Britain decided against the use of force and submitted the dispute to the International Court, which decided it had no jurisdiction. But if we are starved from oil, we should attempt to figure out some way to denationalize what the OPEC countries have done, in taking the property of the seven sisters, the oil companies—BP and others—without compensation, or without adequate compensation.

But the demands and the blackmail and the extortion that is contained on the front page of the New York Times today concerning what OPEC has in mind for us should drive the U.S. toward independence from OPEC oil, not only as a matter of self-respect, but as a matter of national defense and continuing economic development in this country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. How much time remains, Madam President?

The PRESIDING OFFICER. Four minutes 54 seconds.

Mr. LEVIN. I yield 4 minutes to Senator BOND.

Mr. BOND. Madam President, I rise in opposition to the amendment by my colleague from Delaware, Mr. CARPER. This amendment to the energy bill would substantially raise Corporate Average Fuel Economy, CAFE, standards with negative impacts on jobs, safety and the health of our domestic economy.

On March 13, the Senate overwhelmingly passed a bipartisan amendment I wrote with my colleague from Michigan, Senator LEVIN. The Levin-Bond amendment mandates that the National Highway Traffic Safety Administration, NHTSA, increase CAFE standards for cars and light trucks to the maximum feasible levels. The Bond-Levin amendment replaced a provision in the original energy bill which called for significant increases in CAFE based only on a political number, not science. The Senate wisely rejected that underlying provision as being bad for American jobs, bad for highway safety and bad for consumer choice.

Unfortunately, the Carper-Specter amendment on oil consumption would result in CAFE increases similar to the Kerry provision. It must be defeated. While Senator CARPER's goal may be to reduce American dependence on foreign oil, the effect of his amendment would be lost factory jobs, more highway fatalities and reduced vehicle choice. Don't be fooled by arguments that Senator CARPER's proposal is not a CAFE increase. The only way to meet the target under the amendment is for NHTSA to increase fuel economy standards beyond the maximum feasible level. And why would NHTSA only look at the CAFE program? Because it is the only regulatory authority currently available to pursue the mandated oil reductions under the Carper amendment!

The debate on the Levin-Bond amendment was only a few short weeks ago but let me refresh your memories as to the details of this proposal which passed on a 62–38 vote. Specifically, the Levin-Bond amendment directs the Department of Transportation to increase fuel economy standards for cars and light trucks based on consideration of a number of factors including the desirability of reducing U.S. dependence on foreign oil. I agree with the sponsor of the amendment that a goal of our national energy policy should be a reduction in the amount of imported oil. That is why I included language in my amendment last month requiring NHTSA to include it in the regulatory process to set new CAFE standards.

Other factors that NHTSA must consider include: technological feasibility; economic practicability; the effect of other government motor vehicle standards on fuel economy; the need to conserve energy; the effect on motor vehicle safety; the effects of increased fuel economy on air quality; the adverse effects of increased fuel economy standards on the relative competitiveness of manufacturers; the effect on U.S. employment; the cost and lead-time required for introduction of new technologies; the potential for advanced

technology vehicles—such as hybrid and fuel cell vehicles—to contribute to significant fuel usage savings; and the effect of near-term expenditures required to meet increased fuel economy standards on the resources available to develop advanced technology.

The Department of Transportation shall complete the rulemaking for light trucks within 15 months of enactment and shall give automobile manufacturers sufficient lead-time to comply with the new standards. The rulemaking for passenger cars shall be initiated within 6 months of enactment and shall be completed within 24 months. Each rulemaking shall be multiyear for a period not to exceed 15 model years. If DOT fails to act within the required time frame, it will be in order for Congress to consider, under expedited procedures, legislation mandating an increase in fuel economy standards, consistent with the considerations set forth above.

These are the details of what the Senate adopted last month on a bipartisan vote. It is a carefully balanced proposal with firm deadlines and clear criteria. Unfortunately, the Carper amendment before us today would undermine and distort the rulemaking considerations by NHTSA. The Carper amendment returns to the notion of setting an arbitrary target—in this case, to reduce the amount of oil that can be consumed in our passenger car and light trucks in 2015. Not only would this lead to CAFE increases similar to those proposed in the original bill, but it would also force the Department of Transportation to disregard the careful balancing of criteria in its rulemakings. Indeed, DOT would have to impose a overriding element (saving a specific amount of oil) on top of the considerations that the rulemaking would otherwise try to balance.

If you get nothing else out of my statement today, please simply remember that this proposed amendment will absolutely hurt consumers who choose to drive minivans and SUVs. Because the Senate adopted a measure excluding pick-up trucks from the CAFE increases, the burden on the rest of that light truck category is increased dramatically. This effect would be magnified with the adoption of the Carper-Specter amendment today.

Oh, and has anyone besides me taken the time to ask NHTSA or the Department of Transportation if this amendment is even feasible? I talked to Secretary Mineta yesterday, and 2 days ago I spoke with Dr. Runge, the NHTSA Administrator. Both indicated to me that it is not feasible to guarantee specific fuel savings through CAFE standards. There are simply too many variables and assumptions preventing any guarantee of this sort.

Many of the Senators who supported the Bond-Levin amendment agreed that the CAFE program is complex with many tradeoffs. That's why the experts at NTHSA are best qualified to determine future CAFE levels based on sound science and dependable data. Rather that CAFE increases based on nothing more than a political number which would have negative consequences for American jobs, highway safety and economic growth, NHTSA can determine the appropriate standard after extensive review and study.

Given the complexities of the issues, there are great advantages to allowing a rulemaking process to resolve these issues rather than pre-selecting an arbitrary outcome as the Carper oil consumption amendment would do.

One of the most useful reports in the entire fuel economy debate is the National Academy of Sciences study on the Effectiveness of CAFE. As I did last month, let me share with you a key finding about the safety and higher standards:

> In summary, the majority of the committee finds that the downsizing and weight reduction that occurred in the late 1980s most likely produced between 1,300 and 2,600 crash fatalities and 13,000 and 26,000 serious injuries in 1993.
>
> If an increase in fuel economy is effected by a system that encourages either downweighting or the production and sale of more small cars, some additional traffic fatalities would be expected.

I believe that NAS report offers all of us in the Senate clear guidance and expert, scientific analysis as we debate fuel economy levels. I also point out that the NAS panel was extremely careful to caution its readers that its fuel economy targets were not recommended CAFE goals, because they did not weigh other considerations such as employment, affordability, and safety.

I urge you to join me, along with numerous business and labor groups, in opposing the Carper amendment which only complicates NHTSA's effort to set appropriate CAFE standards under the mandates of the Bond-Levin amendment.

If you want appropriate CAFE standards for cars and light trucks that won't harm jobs, highway safety and vehicle choice, vote ''no'' on the Carper amendment.

Madam President, we have been here before. We have had this debate. We have done the bill. We got the T-shirt. Unfortunately, we are back on the floor with this again.

Let me be clear: This amendment totally negates the careful direction that we put in law in the Levin-Bond amendment that the National Highway Transportation Safety Administration must use the best science and technology available to increase standards to get more fuel-efficient cars, vans, and trucks on the road.

Setting an arbitrary standard which comes out of somebody's hip pocket does nothing for sound science. I have talked to NHTSA. They say there is no way we can guarantee it. There would have to be a wild estimate that would come out somewhere around where the original proposal in the underlying bill was.

Do my colleagues know what we found out when we took a look at that? We have the National Academy of Sciences saying the mandated fuel efficiency previously done has resulted when we could not meet those goals through technology in cars that weighed roughly 1,000 pounds less. What happens? Thousands and thousands of people have been killed in unsafe cars.

Despite what some of my friends on the other side of this issue say, you cannot mandate by law that technology will come out of thin air. We have asked the experts at NHTSA to use the National Academy of Sciences and find out what technology is available. If we can make diesel out of sludge in Pennsylvania, great, we will do it. That will be available to the National Academy of Sciences.

We are changing in Missouri and Arkansas. We are using poultry waste and turning it into power. Good. Let's use all those things we can, but let us not go back on the carefully agreed upon construct that was developed in the Levin-Bond amendment and overwhelmingly supported which says: Yes, we need more fuel-efficient minivans and cars, and it is going to be based on how much science can move forward, not how much an arbitrary limitation—in terms of saving gallons which cannot be controlled solely by fuel efficiency standards—would do.

There is technology. There will be increases, but it should not be arbitrary. We do not want to deprive people of the opportunity to buy the cars and minivans they need. We have talked in the past about forcing people into purple-people eaters and golf carts. Frankly, that is where you go when you have an unrealistically high CAFE standard.

We need to give people the choices of vehicles that fit their needs that incorporate the new technology which is designed to save as much fuel as possible. We need to keep the jobs in the United States. We need to keep our economy going. We need not compromise safety, as would be done by this amendment.

This amendment is not merely a refinement. This amendment is simply a bad shot at setting a standard that is not based on science but is based on an arbitrary figure that is infeasible, unworkable, destroys consumer choice, costs us jobs in the United States, and risks more lives on highways. I urge my colleagues not to support the Carper-Specter amendment.

I reserve the remainder of my time and yield the floor.

Mr. CARPER. Madam President, how much time remains on either side?

The PRESIDING OFFICER. The sponsors have 1 minute 41 seconds remaining.

Mr. CARPER. And the other side?

The PRESIDING OFFICER. The opposition has 48 seconds.

Mr. CARPER. I would like to have the opportunity to close, if I can. Will the Senator be willing to accommodate me?

Mr. LEVIN. Madam President, I will be happy to accommodate my friend from Delaware.

Madam President, let us be real clear. The Levin-Bond amendment had positive incentives. We need tax incentives, joint research and development money, Government purchasing, to a much larger extent than the administration proposed. They are in the Levin-Bond amendment.

Also in the Levin-Bond amendment, which this would totally, in effect, abrogate, is a regulatory process: 15 months for the Department of Transportation to look at 12 different criteria in upping the CAFE standard. This does not wait. This prejudges the outcome of that process and says 1 million barrels a day. That is the mandate. This is not some objective, this is a mandatory amount specifically in this amendment, and it is not the way we should be legislating.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, in listening to the comments against the Carper-Specter amendment, I am not sure they have fully read the Levin-Bond amendment. I know they have not read the amendment we offer today. Senator SPECTER and I both voted for the Levin-Bond amendment. It is a good amendment. It has a number of positive features that make common sense for our country.

In a moment or two, a budget point of order will be brought against our amendment. None was brought against the Levin-Bond amendment. The reason is because in the Carper-Specter amendment, we are looking for a real reduction in oil consumption. We do not vitiate the Levin-Bond amendment. The whole language stays in the bill.

The Levin-Bond amendment directs the Secretary of Transportation to promulgate regulations, essentially CAFE regulations, in order to meet high fuel efficiencies. We do not change that, but we do say in order to reduce the consumption of oil for our cars, trucks, and vans by 2015, not only should the Secretary of Transportation have the opportunity to consider changes in CAFE, but they should also consider how it can reduce oil consumption through alternative fuels.

Alternative fuels could be biodiesel or soy diesel. It could include ethanol, diesel created from coal waste in Pennsylvania, West Virginia, Ohio, or other States.

Four things are different than when we voted a month ago on the Levin-Bond amendment. The Middle East today is in turmoil. Venezuela is in turmoil. We voted last week not to drill in ANWR, and we voted last week to cut off oil imports entirely from Iraq. That is 1 million barrels a day. Those things are different.

We need to put into this legislation meaningful objectives, measurable objectives. This amendment would do that.

The PRESIDING OFFICER. All time has expired on this amendment. The Senator from Michigan.

Mr. LEVIN. Madam President, is it in order at this time to move to table the Carper amendment?

The PRESIDING OFFICER. The motion is in order, but the vote will occur later.

Mr. LEVIN. I move to table the Carper amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 3326

Mrs. MURRAY. Madam President, I call up amendment No. 3326.

The PRESIDING OFFICER. The amendment is pending pursuant to the order.

Mrs. MURRAY. Madam President, the amendment that is now before us is a minor tax amendment that has been cosponsored by my colleague from Washington, Senator CANTWELL. I know debate on this bill is limited, so I will be very brief.

The tax provisions in this bill provide important tax credits to encourage the use of energy-efficient fuel cells that are 1 kilowatt or greater. I note that the tax credit applies only to fuel cells of 1 kilowatt or greater because there are a number of important fuel cell applications that are less than 1 kilowatt. It is important that we support the development of fuel cells that are less than 1 kilowatt.

This amendment would expand the tax credit to include fuel cells that are greater than a half a kilowatt, but would keep the per kilowatt amount of the tax credit the same. Fuel cells that are between a half and 1 kilowatt are used as emission-free power supplies for a number of noteworthy applications, including cellular phone tower repeaters, home dialysis machines, railroad signaling and switching equipment, and recreational vehicle and camping powering equipment.

Fuel cells are an emerging technology that hold the promise of helping to dramatically reduce world pollution. This promising technology could eventually shift our dependence from fuels like gasoline and diesel fuel to hydrogen. This important tax credit is intended to provide an incentive for research, develop, design, and use fuel cell technologies.

We need to encourage the use of all types of fuel cells because as we gain more experience in the design and construction of fuel cells, it will allow the technology to advance to the point where it is competitive with other power sources.

Some may say this amendment is too costly, but the current market for fuel cells is very small. We have estimated the cost of this amendment, over the period of the tax credit, is less than $3 million. That is a small price to pay for encouraging the development of this promising new technology.

I urge my colleagues to support the development of a broader scope of fuel cell technology by supporting this amendment.

I know Senator CANTWELL from my State wanted to be present as well, but she is unavailable at this time. I understand this amendment has been accepted on both sides and would be willing to move quickly to a vote.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Madam President, I ask that the Senator from Washington yield.

Mrs. MURRAY. I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. The Finance Committee has examined this amendment, and we approve it. I think it is a good idea to encourage greater research into fuel cell development. It is clearly a technology of the future. The sooner we begin, the better. This is a very modest amendment, but it is an important amendment, and I urge the Senate to adopt it.

I yield the floor.

Ms. CANTWELL. Madam President, I rise today as a cosponsor of this amendment, and ask my colleagues to vote in its favor. I also want to thank my friend, Senator MURRAY, for her work on this amendment.

I think there is broad bipartisan support for further development of the fuel cell as one of the solutions to our Nation's 21st century energy needs. The number of potential applications for the fuel cell is almost limitless. In this regard, I was pleased to join with Senator DORGAN in sponsoring an amendment to this energy bill that will require the Secretary of Energy to develop a program to ensure 100,000 hydrogen fuel-cell vehicles will be available for sale by 2010, and 2.5 million vehicles will be available by 2020. Fuel cell vehicles are three times more efficient than internal combustion engines, and they produce none of the harmful emissions associated with fossil fuels.

The fuel cell vehicle is a concept that has recently been embraced by the President, and I believe the broad bipartisan support for this technology is already reflected in the tax credit included in this bill for other, stationary fuel cell applications. Currently, this credit is available for fuel cells of one kilowatt or more. What this amendment would do is simply lower the floor to half a kilowatt, or 500 watts.

I believe this is an important change, because we should also extend this credit to fuel cells that can be used in numerous business applications. Fuel cells smaller than one kilowatt are already providing power for remote cell phone towers, backup power for certain medical technologies, and even used to light some types of railroad and traffic

signals. Expanding the tax credit already in this bill will help further demonstrate the commercial applicability of this technology.

This is an important component of any 21st century energy policy, and I ask my colleagues to support this amendment.

The PRESIDING OFFICER. All time is yielded?

Mrs. MURRAY. All time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3326.

The amendment (No. 3326) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, we have been able to save a little bit of time. I ask unanimous consent that we move down the amendment list and, prior to the votathon starting, we allow Senator GRAHAM of Florida to bring up amendment No. 3370. He has agreed there would be 15 minutes equally divided on this amendment.

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

Mr. REID. This would be under the same rules as the prior unanimous consent agreement: No seconds, and the vote would take place at the end of the votes on other amendments.

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

The Senator from Arizona.

Mr. KYL. As I understand it, it is now in order for me to bring up amendment No. 3333. Is that correct?

The PRESIDING OFFICER. The Senator may consider amendments Nos. 3333 and 3332 concurrently.

AMENDMENT NO. 3333

Mr. KYL. Madam President, I will first discuss amendment No. 3333.

As a member of the Senate Finance and Energy Committees, I have had the opportunity to witness first-hand the contradictions in Federal energy and tax policy, specifically policy for the electricity industry. One glaring example is the Energy Policy Act of 1992 and the private use rules of the Internal Revenue Code, which pre-date the Energy Policy Act and are applicable, as you know, to public power utilities.

While our Federal energy policy since 1992 has been to open electric markets to wholesale and even retail competition, our Tax Code contains restrictions dating back to the Tax Reform Act of 1986 that make it difficult, and in some cases impossible, for publicly-owned utilities to comply with that deregulation policy.

In an attempt to remove the tax-code impediments to participation in the newly restructured electric industry, the publicly-owned and investor-owned utilities labored for several years to develop a package of tax-law changes that would provide the necessary flexibility to comply with the new energy policies being implemented by the Federal and State governments while, at the same time, not fundamentally changing the competitive balance between the private and public sectors of the energy industry.

The fruit of those efforts was S. 972, introduced last year by Senators MURKOWSKI, THOMPSON, BREAUX, and JEFFORDS. I joined as a cosponsor of this bipartisan bill. In the House, H.R. 1459 was introduced by Congressman J.D. HAYWORTH and was cosponsored by 16 other members of the Ways and Means Committee. These bills were successful in accommodating widely divergent views of public-power and investor-owned utilities on a whole score of Federal tax issues. They represent years of negotiations between the private and public sectors of the industry, and as such, reflect a delicate, equitable balancing of interests.

There are four provisions in these companion bills that are designed to help modernize our Tax Code for investor-owned utilities. I want to address these provisions in light of the subsequent House-passed bill, H.R. 4, and the bill marked out of the Senate Finance Committee that we are now considering. Both of these latest incarnations represent a significant departure from the original texts of H.R. 1459 and S. 972.

The first provision addresses the transmission tax problem that has occurred as the result of FERC Order 2000. This order strongly encourages, some would say ''directs,'' all transmission-owning electric companies, subject to FERC jurisdiction, to join a regional transmission organization, RTO. However, many proposals to form RTOs would force these utilities to sell or spin off their transmission assets to form independent transmission companies, Transcos, resulting in a substantial Federal income-tax liability.

The solution to this problem, as stated in S. 972 and H.R. 1459, is to amend section 1033 of the Tax Code to permit sales of transmission assets on a tax-deferred basis if these sales occur in conformity with Order 2000, and the proceeds of the sale are reinvested in certain utility assets. Section 355(e) would also be amended to permit a non-taxable spin-off of transmission assets even if they are combined with neighboring transmission assets in conformity with Order 2000. Amending the Federal Tax Code to allow formation of Transcos will further diminish tax barriers to wholesale and retail competition by creating truly independent transmission organizations.

H.R. 4 includes this provision, but unfortunately, the bill reported out of the Senate Finance Committee does not. Before this bill is signed by the President, I hope that the transmission-relief provision will be included in the legislation.

The second provision concerns the equitable tax treatment of nuclear decommissioning funds, and it is the only provision of the four that is addressed in all of the aforementioned bills. Under current law, owners of nuclear power plants must make mandatory contributions to external trust funds to ensure that monies are available to decommission plants when they are retired. Congress added section 468A to the tax code in 1984 to permit owners of nuclear plants to deduct a portion of the contributions made to these external funds. Section 468A, when enacted, was designed to operate within the existing structure of regulated rates. The ability to deduct the contributions as permitted in section 468A is currently dependent on the local public service commission's formal approval of the decommissioning expenses that an electric utility can charge its customers. Both the House and the Finance Committee have adopted changes to section 468A to adapt to the structure of competitive markets while preserving the Section's original intent. These changes will facilitate the transfer of nuclear facilities to new owners in compliance with State and Federal directives.

A third provision, included in S. 972, H.R., 1459, and H.R. 4, but not in the Finance Committee bill, has to do with the reimbursement of utilities for construction costs. Under current law, the costs of building new transmission and distribution lines for new generating plants, homes, commercial properties, and industrial sites, indeed, any kind of property where construction costs are paid by a developer or interconnecting party to a utility, are treated as contributions in aid of construction—CIACs—and are considered as taxable income to the utility. The result is that developers or interconnecting third parties must reimburse a utility for construction costs plus a Federal tax of over 30 percent. The proposed solution is to treat the reimbursement of these costs as nontaxable, therefore facilitating new generation, transmission, and distribution facilities by making it less costly to provide these services. This would certainly help increase the supply of power and improve electric reliability, and I am hopeful that Congress will resolve this issue in conference.

The fourth provision concerns the public power utilities only. This provision effectively relaxes the private use restrictions on existing bonds if the issuing municipal or State utility elected to terminate permanently its ability to issue tax-exempt debt to build new generation facilities. Publicly-owned utilities, as entities of State and local governments, have used tax-exempt debt to finance their utility infrastructure in much the same way as cities finance schools, roads, and bridges. Without this provision, public power systems cannot issue stock to raise capital and have no alternative source of financing for these large capital projects other than municipal bonds.

In exchange for the use of tax-exempt debt, public power systems are required to adhere to a strict set of Federal tax rules and regulations designed to limit the amount of power they can sell to private entities. These rules limit a public power entity's ability to negotiate contracts with exiting customers, to resell excess power resulting from competition, ''lost load'', and to discourage the opening of transmission lines that were financed with tax-exempt debt.

The truth is, the current private use laws and regulations are no longer suitable for today's energy market. S. 972 and H.R. 1459 successfully incorporated what both the investor-owned and the publicly-owned utilities agree would constitute an effective modernization of the current Tax Code. The Finance Committee bill did not meet that test, and H.R. 4, although it attempted to do so, failed that test as well.

What happened was that H.R. 1459 sustained damage during the process of House passage. The bill, as approved by the Committee on Ways and Means—H.R. 2511, ''The Energy Policy Act of 2001''—and as subsequently passed by the House—H.R. 4, ''Securing America's Future Energy Act of 2001''—contains substantial, material modifications to the original legislation that make it impossible to vote for. In fact, certain modifications are even more restrictive than existing law and IRS regulations. As a result, H.R. 4, overall, works absolutely counter to national energy policy and the efficient operation of our country's electric infrastructure. The various conditions set forth in the bill will unfortunately discourage utilities from taking the necessary steps to advance open access. Examples of the most problematic provisions:

Provisions that eliminate public power's ability to elect to forego issuance of future tax-exempt bonds for generation from refunding outstanding tax-exempt generation bonds, even though this can result in savings to the utilities' customers and the U.S. Treasury. The bill also prohibits these electing utilities from utilizing tax-exempt financing to fund limited repairs and environmental improvements, including those which may be government-mandated.

In the context of sales of energy, there are provisions that restrict or eliminate public power's ability to use long-standing statutory and regulatory exceptions to the private use rules, and provisions that constrain new rules designed to enable public power to participate in a deregulated environment. As an example, language in the bill effectively precludes sales to rural electric cooperatives that were one of the exceptions to the private use rules. The bill seems to provide that the expansion of an existing generation facility can result in loss of eligibility of the entire facility for permitted exception treatment for long-term take or pay requirement contracts, even if the cost of the expansion was financed with taxable debt or equity. Furthermore, a public power company that owns no transmission will qualify for the bill's clarifications to the private use rules only if all transmission providers who provide transmission to that municipal utility's customers provide open access to all of their transmission facilities. These types of restrictions reduce or eliminate many of the benefits intended in the bill.

There are new restrictions on tax exempt bonds for transmission facilities that will prevent municipal utilities from using tax-exempt bonds to finance new transmission facilities to connect new power plants to their service areas. In addition, new restrictions in the bill require that, to qualify for private use relief, public power transmission facilities must be owned, directly connected to customers, and necessary to serve those customers. Thus, the bill ignores the need for investment in new transmission for maintenance of grid reliability, the multiple legal forms of ownership and use of transmission (including the different forms of RTOs and related organizations, leasehold and operational arrangements), and the fundamental physics involved in transmission network operation.

The new exception to the private use rules for sales of certain lost load is revised so as to require proof that the load loss was ''attributable to open access'' in order to take advantage of this exception, which was designed to ensure that our nation's energy capacity is fully utilized.

I had hoped that these problems could have been resolved in the Finance Committee by my colleagues and myself, but the revenue constraints imposed on us have prevented us from rectifying these problems. So the Finance Committee, rather than correcting the errors as reported in the final version of H.R. 4, chose not to provide any private use relief at all. Instead, we directed the Treasury to conduct a study to examine the problem and propose a solution.

That said, I think more immediate assistance can and should be provided by the Treasury Department.

During the Finance Committee's mark-up of the tax title of the pending energy bill, I asked the Treasury Department to look into an allocation proposal related to the private use restrictions of the Internal Revenue Code. The proposal would provide a limited safe harbor under which issuers of tax-exempt bonds could allocate private use first and foremost to the portion of an output facility that is not financed with outstanding tax-exempt bonds. For certain bonds, the proposal would permit issuers to use reasonable methods to allocate various funding sources among their assets.

The Treasury Department has examined this proposal and believes that many of the issues raised therein could be addressed under current law. Treasury officials say we could, under a different time frame than the pending energy bill, issue regulations to that effect. In the meantime, however, I would strongly support a provision in the tax title of the bill incorporating this proposal.

In addition, various members of the Finance Committee, including the chairman of the Energy and Natural Resources Committee, have asked that the Treasury Department finalize various temporary output regulations that relate to the use of tax-exempt financing by public power as quickly as possible. I expect that the Treasury Department will make finalizing these regulations a top priority and will endeavor to be responsive to the many public comments that it has received. I look forward to their findings.

I ask unanimous consent to have printed in the RECORD letters dated March 8, 2002 and March 20, 2002.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 8, 2002.

Hon. MARK A. WEINBERGER,
Assistant Secretary, Tax Policy, Department of the Treasury, Washington, DC.

DEAR MR. SECRETARY: I am following up with you directly on certain items that were raised during the Senate Finance Committee's consideration of the tax title to the pending Senate energy bill. Although I continue to believe that a broader, more expansive solution is necessary to more fully address the tax issues presented by the restructuring of the electric utility industry, I raised question at the mark-up with respect to two narrower items.

The first item concerns our discussion during the mark-up about an allocation proposal related to the private use restrictions of the Internal Revenue Code. You will recall that I asked if you would examine this proposal. The proposal generally would provide a limited safe harbor under which issuers of tax-exempt bonds could allocate private business use first to the portion of an output facility that is not financed with outstanding tax-exempt bonds. For certain bonds, the proposal would permit issuers to use reasonable methods to allocate various funding sources among their assets.

The second item is the temporary output regulations. As you know, the Finance Committee, as part of its report, asked that the Treasury Department finalize the temporary and proposed output regulation as quickly as possible, providing flexibility in those regulations, to foster participation of public power in a rapidly changing electric industry, without adversely affecting public power investors and customers.

I look forward to a letter from the Treasury Department on both of these issues. I am hopeful that you will find that many of the issues raised by the allocation proposal could be addressed under present law, and that, under a different timeframe than the pending energy bill, you would issue administrative guidance to that effect. It would be helpful, in the meantime, however, if you would also indicate your support for a provision in the tax title of the Senate bill incorporating this proposal.

With respect to the temporary and proposed regulations, I hope that you will be able to state in that letter that you will make the finalization of these regulations a

top priority and will endeavor to use your regulatory authority to the greatest extent possible to be responsive to the numerous public comments you have received and to further public power's participation in the restructuring of the industry.

Naturally, I do not expect you to take any action that would be inappropriate or contravene normal agency rules and regulations. Thank you for your attention to this matter.

Sincerely,

JON KYL,
U.S. Senator.

DEPARTMENT OF THE TREASURY,
Washington, DC, March 20, 2002.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: Thank you for your letter dated March 8, 2002 concerning certain items that were raised during the Senate Finance Committee's consideration of the tax title to the pending Senate energy bill. In particular, your letter refers to two matters relating to electric facilities financed with tax-exempt bonds: (1) temporary and proposed Treasury regulations that define private use of output facilities, including generation, transmission and distribution facilities (temporary regulations; and (2) a proposal that, in general, would allow issuers to allocate private use first to the portion of an output facility that is not financed with tax-exempt bonds.

Your letter requests that the Treasury Department finalize the temporary regulations expeditiously, in a manner that fosters participation by public power systems in electric industry restructuring. We understand that providing certainty in this area is necessary for the industry to evolve. Thus, we are making the finalization of these regulations a top priority. We intend to craft regulations that take into account the current dynamic environment in the electricity industry and the policy objective of facilitating public power's participation in the restructuring of the industry. In finalizing the regulations, we will, of course, carefully consider all of the public comments we have received.

Treasury is examining your proposal regarding the proper allocation of private use of an output facility. We believe that the issues raised by your proposal can be addressed under present law. The proposal raises policy and administrative questions that require careful consideration. As we work to finalize the temporary regulations, we intend to address the issues raised by your proposal. In doing so, we must craft an administrable set of rules that are consistent with the policy objective of a competitive electricity market.

We hope this information is helpful to you. Please contact me if you have any additional questions.

Sincerely,

MARK A. WEINBERGER,
Assistant Secretary
(Tax Policy).

Mr. KYL. Madam President, this first amendment is a very simple amendment that would save a little over a billion dollars, according to the calculations of the committee, but probably would save closer to $3 billion by striking that section of the Finance Committee portion of the bill that is called the clear act provisions; more specifically, those provisions that provide tax credits for Americans who purchase four specific kinds of motor vehicles; specifically, a new qualified alternative fuel motor vehicle, a new qualified fuel cell motor vehicle, a new hybrid motor vehicle, and then it extends the present law which provides a credit for electric vehicles.

I know this provision was inserted in the Finance Committee with the best of intentions, but for the reason I will point out, I think this has not been as carefully thought out and prepared as it should be. Based on the experience of my home State of Arizona trying to do the same thing, it would be premature for us to move forward with this particular program at this time. I will illustrate specifically what is involved and then get to the Arizona experience.

Under the bill pending before us, there would be provided a maximum income tax credit of $40,000 per taxpayer for the purchase of these kinds of motor vehicles, the fuel cells, the alternative fuel, and the electric vehicles. The fact is that is for a very large vehicle; the average for the usual passenger car type of vehicle would be in the neighborhood of from $3,500 to $6,000.

The part I am particularly interested in is the alternative fuel vehicle. According to the committee staff, the average tax credit in this case would be about $5,000. It is determined by a very complicated formula based upon the weight of the vehicle and some other factors, but it is about a $5,000 subsidy per taxpayer buying this particular kind of vehicle.

I am concerned about this because Arizona decided to try to do this same thing, provide a taxpayer subsidy for the purchase of these alternative fuel vehicles as a way of trying to clean up our environment and to reduce reliance upon pure oil or gasoline. It provided a subsidy, calculated a little bit differently, for the purchase of these vehicles; in fact, for the retrofitting of the alternative fuel system for a vehicle that had already been manufactured.

I will read some headlines, or excerpts, from some of the Arizona newspapers after this program was put into effect. I might begin by saying this has been a fiasco in Arizona. The program has since been terminated. Politicians' careers have been destroyed because of it. They did not think it through carefully enough before they implemented it. It was about to bankrupt the State, so the State decided to terminate the program prematurely before it ended up costing them as much as it was going to cost.

These are a few quotations:

The rebate program was originally projected to cost the State about $3 million but has since spiraled to a dizzying $483 million.

That is from the Arizona Daily Star.

Bad legislation, bad policy and no benefit to air quality.

That is a quotation from the Arizona Republic. That is October 30, 2000.

From that same editorial:

There has been no environmental study of the alternative-fuel program by any State agency, just as no one ever completed an incisive cost analysis of the legislation.

Another quotation from the Arizona Republic:

The law allowed thousands of people to buy expensive sport-utility vehicles with the State picking up nearly half the costs of the trucks and their bifuel conversions to either propane or compressed natural gas.

One final quotation from the Arizona Daily Star says:

The Arizona Republic shows that 13 percent of the applications for cleaner-running vehicles came from rural areas without a pollution problem.

I ask unanimous consent that the remainder of these statements be printed in the RECORD at this point.

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

ARIZONA'S EXPERIENCE WITH ALTERNATIVE FUELS AND TAX CREDITS.

''The law in question . . . provided tax incentives and rebates for up to 50 percent of the cost of a car equipped to burn alternative fuels. One of the startling loopholes in this poorly written law was a failure to require any accountability from consumers. Vehicles equipped to run on an alternative fuel are also equipped with regular gas tanks. A person could buy a new vehicle, have half of it paid for by the state, and never use an ounce of the cleaner burning fuel system.'' (AZ Daily Star, Editorial, Oct. 31, 2000)

''The rebate program was originally projects to cost the state of about $3 million but has since spiraled to a dizzying $483 million. (AZ Daily Star, Editorial, Oct. 30, 2000)

''Bad legislation, bad policy and no benefit to air quality.'' (AZ Republic, Oct. 30, 2000)

''There has been no environmental study of the alternative-fuel program by an state agency, just as no one ever completed an incisive cost analysis of the legislation'' (AZ Repub, Oct. 30)

''House Speaker Jeff Groscost boasted in Washington three weeks after a new tax credit law took effect here that Arizona auto dealers had at least 1,800 orders for alternative fuel vehicles. . . . The state budget had been built on the assumption that only about 300 people would buy these cars and trucks and apply for the generous tax credits.'' (AZ Daily Star, Oct. 30, 2000)

''The law allowed thousands of people to buy expensive sport-utility vehicles with the state picking up nearly half of the costs of the trucks and their bifuel conversions to either propane or compressed natural gas.''(AZ Republic, Oct. 30

''Just 12 days after it was implemented, the state's alternative-fuels rebate program has already blown its worst cost estimate by 13 percent.''(AZ Repub, Nov. 2, 2000)

''The Arizona Republic shows that 13 percent of the applications for cleaner-running vehicles came from rural areas without a pollution problems.''(AZ Daily Star, Oct. 30, 2000)

''The Republic's analysis of the state's rebate program to convert gasoline-powered cars and trucks to alternative fuel, mainly propane and natural gas, is based on preliminary data obtained from the Commerce Department, the administrator of the program.

''The analysis included only the 5,512 applications in which a rebate amount was contained in the computer database obtained this week from the Commerce Department. The database contained more than 12,000 applications for rebates and is anticipated to grow to 22,000 when all the applications are processed. Few rebates have been paid to the buyers of new vehicles being converted to an alternative fuel.

''The alternative-fuel vehicle rebate legislation passed on April 18 didn't contain funding limits. The estimated cost of $3 million to $10 million for the program was unofficial.

Under the alternative-fuels program, the entire cost of converting a vehicle to propane or compressed natural gas would be paid by the state, along with 30 percent of the purchase price of a new vehicle. For example, if a sport-utility vehicle originally cost $25,000 plus $7,000 to convert it to also run on compressed natural gas, its owner would be reimbursed the entire conversion cost plus $9,600—30 percent of the total vehicle cost of $32,000.'' (AZ Repub, Nov 2, 2000).

''It sounded irresistible: buy a car that burns something other than gasoline and the state pays up to 50 percent of the cost; convert an existing gas-burner to alternative fuels and the state pays 100 percent of the cost of the conversion. No alternative fuel depot at home? Not to worry. The state will cover that $7,000 as well, or up to $400,000 for a commercial alternative-fuels depot. It is all courtesy of a measure proposed and adopted in Arizona at the last minute of a legislative session in April. Sound too good to be true? More than 22,000 Arizonans did not think so, and since July they have filed applications for an average of $21,966 each, which would cost the state nearly $500 million from a program that was supposed to cost less than $5 million a year. State officials now say the eventual costs could reach $800 million once applications being processed are counted.

''The premise of the program was simple. According to a state-issued summary, the law allows the users of alternative-fuel vehicles bought or converted after Jan. 1, 2000, to qualify for cash rebates or tax credits worth 30 percent of the vehicle's cost. Eligible vehicles can use an alternative fuel solely or, as with 'bifuel' vehicles, run on either gasoline or some other fuel, such as natural gas. If a $25,000 vehicle cost $7,000 to convert to propane, for example, a program participant would be reimbursed the conversion cost plus $9,600, 30 percent of the total $32,000 cost.

''Some found the legislation laughable from the beginning. 'The legislation had so many loopholes you could drive a Ford Excursion through it,' said Sandy Bahr, outreach director for the Phoenix-based Grand Canyon chapter of the Sierra Club. Ms. Bahr said that, because the bill does not require owners to actually use alternative fuels, many are using the bifuel-vehicle incentives to take advantage of the program. 'You've got people putting little four-gallon propane tanks in sports utility vehicles and getting 50 percent back on a $40,000 car.'' Ms. Bahr said. 'Four gallons of propane goes less far than four gallons of gasoline, so all they do is use their regular engines because propane is hard to find. That actually creates more emissions because they're driving a bigger car than they would ordinarily buy.'

''Moreover, there are only six refueling stations for alternative fuels in the Phoenix area, and none in the rest of the state.'' (NY Times, Nov. 2, 2000)

Mr. KYL. What we can see is, like the system that is being proposed by the Senate, there was no cost-benefit analysis. There was not a very clear idea of what the ultimate costs were going to be, and the experience with the program not only showed fraud or potential fraud but runaway expenses.

Under the program that has come out of the committee, one of the concerns is that nonprofits will be able to utilize credits by selling them, which, of course, opens up the possibility that there could be a secondary market or abuses could occur in selling these large tax credits.

There has been very little evaluation of whether or not the vehicles could be altered after their purchase, after the tax credit has been received, so that they could run in fact on gasoline or diesel. There is no data whatsoever to show that we would have a better environment as a result. In fact, there has been no cost-benefit analysis.

Pursuant to an amendment I offered in the committee, there will be a study after the fact that will tell us how successful the program has been, but there has been no study in advance of that. In fact, the committee report language does not cite a single study or report justifying the credits under the reason for change.

The report says, and I am quoting:

> The committee believes further investments in alternative fuel and advanced technology vehicles are necessary to transform automotive transportation in the United States to be cleaner, more efficient and less reliant on petroleum fuels.

The committee language also prognosticates, and I am quoting again:

> That it expects hybrid motor vehicles and dedicated alternative fuel vehicles are the near-term technological advancement that will replace gasoline- and diesel-burning engines with alternative powered engines.

The revenue estimates are $1.1 billion, but since many of the credits expire after 2006, I think it vastly understates the true cost. I suspect this will be extended before they expire, so that the cost is more likely going to be maybe $3 billion or so over a 10-year period. Obviously, the automobile industry is the primary beneficiary of these credits since they can simply increase the cost of the vehicles, and then the credits obviously go to the taxpayer to offset that increase in cost.

I make this point—and I don't expect members of the committee are going to agree with this proposition—I wish we could go a little slower. I advised the committee of the experience in Arizona. To the credit of the committee and the chairman of the committee, his staff was very careful to talk to people in Arizona and do their best to remove the kinds of problems we experienced in Arizona. I commend the chairman of the Finance Committee for that effort. It was a useful effort.

I am concerned we are going to find a lot of problems in this program after it begins. It will be too late then. We will find it will cost a whole lot more than we predicted and the benefits will not pan out in terms of cost-benefit analysis.

I reserve the remainder of my time on this amendment. If anyone wishes to respond, I will briefly discuss the other amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, on the face of it, everyone would agree, this is to give a stimulus, a boost, to alternative fuels, alternative fuel vehicles, and alternative fuel vehicle infrastructure. About two-thirds of the petroleum we consume today in America is consumed in the transportation sector—cars, trucks, railroads, and so forth.

Clearly, we are trying as Americans to wean ourselves a bit from our over-reliance on OPEC. That is the whole point of this energy bill. We will not make ourselves completely self-reliant. No one claims that. At least on the margin, we are making a step or two difference to become more energy self-sufficient. Clearly, helping alternative fuel development and alternative fuel vehicle development, alternative fuel vehicle infrastructure development—pumps and so forth—will help.

It is also important we not act precipitously, that we act measurably, thoughtfully. Through the very able assistance of my good friend from Arizona, we have worked closely with the Arizona Department of Transportation. Unfortunately, in the State of Arizona, which attempted something similar a year or two ago, there were people who took advantage of the situation to such a degree that it became a bit of an outrage. We don't want to repeat those mistakes. I don't think anyone in this body wants to repeat those mistakes.

As the Senator said, our staff spent quite a bit of time talking with the Arizona Department over what problems and recommendations they have so the problems do not recur in the provisions enacted here. As a consequence of those discussions, we have dramatically tightened up this bill regarding credits. They cannot be used in the aftermarket by people who alter vehicles. They cannot be used for vehicles that use conventional fuels. This credit is only available to vehicles dedicated to alternative fuels. We made that clear.

I add the primary sponsors of this amendment are Senators who worked hard: Senators HATCH, ROCKEFELLER, KERRY, and SNOWE. They are the primary sponsors of this provision. It has the support of both the auto manufacturing industry and the conservation community, the Environmental Defense Fund, the Union of Concerned Scientists support this amendment, NRDC, Ford Motor Company, Lance Auto Manufacturing, and others too numerous to name.

The main point is, we are trying to wean ourselves from OPEC. This provision is a step, a start. It helps. We have tailored the amendment based upon the experience in Arizona to help assure this works. It will probably not work as well as many think, and it may work better than some Members think, but we are undertaking a good effort to make this right. I appreciate the concerns of my friend from Arizona. They are legitimate concerns and concerns we all have. We have attempted to address these concerns. I thank the good State of Arizona for helping address these matters.

I urge not adopting the amendment that strikes, but to work together to

see what works and what doesn't work and change or modify or delete as the case in Arizona. I thank my good friend for helping draw out what is going on in this debate.

Mr. HATCH. Madam President, I rise today in opposition to the amendment of the Senator from Arizona. As I understand it, this amendment would strike the portions of the energy tax provisions that would provide tax incentives for the purchase of alternative fuels and advanced technology vehicles such as hybrid electric and fuel cell automobiles.

The provisions that this amendment would strike are almost identical to the provisions in the bipartisan CLEAR ACT, which stands for Clean Efficient Automobiles Resulting from Advanced Car Technology, which I introduced last year along with Senators JEFFORDS, ROCKEFELLER, CHAFEE, KERRY, COLLINS, GORDON SMITH, CRAPO, and LIEBERMAN.

The CLEAR ACT is the product of a carefully crafted, delicately balanced, and politically unusual alliance between auto manufacturers, truck engine manufacturers, environmental groups, fuel suppliers, and other stakeholders. I might add that these provisions, which provide strong incentives for energy conservation, are an integral part of the President's energy plan. The CLEAR ACT provisions create a fair and balanced playing field for all the advanced technologies and alternative fuel vehicles that offer the promise of both clean air and less dependency on foreign fuel.

Transportation accounts for about two-thirds of the oil consumption in the United States, and we are 97 percent dependent on oil for our transportation needs. When we consider the role transportation plays in our economy and our way of life, it is hard to believe that we rely on foreign sources for more than one-half of our oil supply. If our nation is going to have a strategy for energy security, that strategy must begin with transportation fuels. The Kyl amendment would take away our best opportunity to provide a balanced approach to achieve this strategy.

Advances in alternative fuels and new vehicle technologies have been significant in recent years. However, three basic obstacles stand in the way of a broad shift toward their adoption. These are the higher cost of the vehicles, the higher cost of alternative fuels, and the lack of an infrastructure of alternative fueling stations.

The CLEAR ACT provisions that this amendment would strike would lower the barriers that stand in the way of widespread consumer acceptance of these advanced technology and alternative fuel vehicles by providing tax credits to consumers who purchase hybrid electric, fuel cell, battery electric, and dedicated alternative fuel vehicles. They would also provide incentives for the purchase of alternative fuels and the development of an alternative fuel infrastructure.

Without imposing any new mandates, the CLEAR ACT provisions in this energy bill focus on the very best emerging technologies to help our citizens to enjoy the health benefits of cleaner air sooner, to help our communities to enjoy the economic benefits of attaining clean air standards sooner, and to help us reduce our consumption of foreign oil sooner than would otherwise be possible.

With the clear benefits of these provisions to less dependency on foreign oil and to cleaner air, which I might add come at a very reasonable cost in terms of revenue loss to the Treasury, it is hard to see why anyone in this body would want to strike them. Moreover, the tax credits the CLEAR ACT offers are performance based, which is to say that they are based on the principle that every dollar of tax expenditure should produce substantive air quality and energy security benefits. The greater the benefits a particular vehicle achieves, the larger the tax incentive for purchasing it.

While I do not want to assume I know the motivations of the Senator from Arizona for offering this amendment, part of it might be based on an unfortunate experience in his home state. Not long ago, a well-intentioned program to promote alternative fuel vehicles by the Arizona legislature experienced extreme cost overruns and failed to provide the promised energy and environmental benefits. I want to assure the members of this body that we have studied the Arizona experience, we have identified the inherent weaknesses of that model, and we have been careful to avoid each one of them in this legislation.

With the CLEAR ACT provisions, until a new advanced vehicle is purchased, until new infrastructure has been installed, or until alternative fuel is placed in the tank of a dedicated alternative fuel vehicle, there will be no cost to the Treasury. And when a cost is incurred, it will be a small cost relative to the resulting environmental benefits and energy savings.

To me it is inconceivable that this Senate would pass an energy policy bill without addressing the issue of how to increase the public's adoption of alternative fuel and advanced technology vehicles. Although gasoline vehicles are 90 percent cleaner today than thirty years ago, the significant increase in the total number of vehicles on the road and the miles traveled per year by each vehicle means that little progress has been made in reducing the contribution of motor vehicle emissions to air pollution.

Similarly, despite improvements in fuel economy compared to thirty years ago, more petroleum than ever is used in motor vehicles and U.S. dependence on imported oil is at a record high and increasing. Alternative fuel vehicles and advanced technology vehicles, such as hybrids and fuel cells, significantly reduce the use of gasoline and diesel and have dramatically reduced emissions. Each dedicated natural gas vehicle displaces 100 percent of the gasoline or diesel that otherwise would be used in that vehicle.

Conventional gasoline and diesel motor vehicle technology has come about as far as it can in terms of fuel economy and emissions. The further gains that are needed to allow the U.S. to achieve energy security and clean air require nonpetroleum vehicles and hybrid and fuel cell vehicles. The nation simply cannot achieve its goals in these areas with these conventional vehicles. Striking these provisions would be a big mistake, and I urge my colleagues to vote against the Kyl amendment.

Mr. GRASSLEY. Madam President, I oppose Senator KYL's amendment to strike the wind energy tax credit extension provisions in this bill. It is unwise from an energy policy standpoint and would be harmful to American agriculture. Therefore, I oppose it vigorously.

Mr. FEINGOLD. Madam President, I supported the amendment offered by the junior Senator from Arizona, Mr. KYL. I did so even though I support the underlying policy that amendment sought to strike from the bill, namely the alternative fuels vehicle tax credit. I regret, though, that this provision, along with many other tax provisions in the bill, were included without adequate offsetting savings. The result is a measure that will make our budget deficits even larger.

We must return to the fiscally responsible budgeting that was so beneficial to the economy, and which brought our budget, however briefly, to balance, and even a slight surplus. If Congress does not pay for additional tax cuts, we will only make matters worse.

Mr. KYL. How much time remains for me?

The PRESIDING OFFICER. The Senator has 2 minutes.

AMENDMENT NO. 3332

Mr. KYL. It is my intention to use the remainder of the time on the second amendment, numbered 3332, after which I presume a Member on the other side will move to table amendment No. 3333, to get the yeas and nays, and I would be happy to accept a voice vote on 3332, which I will describe at this point.

This is an amendment that eliminates the credits for wind energy. According to the industry itself, they are now competitive and they no longer need the subsidy we provide to them. As a matter of fact, quoting from their own material from the American Wind Energy Association: The state-of-the-art wind power plants are generating electricity at costs as low as 4 cents per kilowatt hour, a price competitive with many conventional energy technologies. This is without the production tax credit that would be extended under this legislation.

The AWEA further projects by the year 2005 the costs will be in the area

of 2.5 to 3.5 cents per kilowatt hour, just about exactly the range of the cost of production by coal or nuclear or other generation, or natural gas. This is a tax credit that is simply no longer needed.

Since the Department of Energy Information Administration has analyzed that the RPS mandate in this legislation will only be fulfilled through additional wind energy capacity, we are just basically giving a huge gift to the producers of wind energy that would have essentially a monopoly on this new renewable power we are mandating.

I will not name the particular companies, but the companies that are going to benefit from this are some of the largest production companies in the country, all good companies, but certainly companies that are multibillion-dollar companies and hardly need this particular kind of a credit.

I ask unanimous consent to have printed in the RECORD brochures from the industry itself.

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

WHAT ARE THE FACTORS IN THE COST OF ELECTRICITY FROM WIND TURBINES?

The cost of electricity from utility-scale wind systems has dropped by more than 80% over the last 20 years.

In the early 1980's, when the first utility-scale wind turbines were installed, wind-generated electricity cost as much as 30 cents per kilowatt-hour. Now, state-of-the-art wind power plants are generating electricity at costs as low as 4 cents/kWh, a price that is competitive with many conventional energy technologies. Costs are continuing to decline as more and larger plants are built and advanced technology is introduced.

Aside from actual cost, wind energy offers other economic benefits which make it even more competitive in the long term:

Greater fuel diversity and less dependence on fossil fuels, which are often subject to rapid price fluctuations and supply problems. This is a significant issue around the world today, with many countries rushing to install gas-fired electric generating capacity because of its low capital cost. As world gas demand increases, the prospect of supply interruptions and fluctuations will grow, making further reliance on it unwise and increasing the value of diversity.

Greatly reduced environmental impacts per unit of energy produced, compared with conventional power plants. Environmental costs are becoming an increasingly important factor in utility resource planning decisions.

More jobs per unit of energy produced than other forms of energy.

NEW CORPORATE PLAYERS COULD POWER STRONGER GROWTH IN WIND ENERGY

As the U.S. Senate continues consideration of national energy legislation, the American wind energy industry is poised to continue building on 2001—its most successful year in history—and is the focus of growing interest by major players in the energy field, according to the American Wind Energy Association (AWEA).

The industry is receiving a boost not only from the recent two-year extension of the federal wind energy production tax credit (PTC), which was signed into law March 9, but from a series of announcements by utilities, oil companies, and other firms that they see wind energy in their future. Wind energy supporters are hopeful that with a further three-year extension of the PTC included in the Senate energy bill, the industry will at last have a stable financial environment and the serious corporate participation needed to put it on the road to steady long-term growth.

Among recent industry developments, AWEA said, are the following:

American Electric Power (AEP), one of the nation's largest utilities, spent $175 million in late December to buy the 160-megawatt (MW) Indian Mesa wind plant in West Texas. Previously, AEP had invested $160 million to build its own 150-MW wind farm at Trent Mesa, also in West Texas. Dwayne L. Hart, senior vice president of business development for AEP subsidiary AEP Energy Services, commented, ''The addition of Indian Mesa furthers our goal of enhancing the renewable portion of our overall generation portfolio.'' Ward Marshall of AEP Energy Services is President-Elect of AWEA.

BP and ChevronTexaco announced in mid-January that they will build and operate a 22.5–MW wind plant at their jointly-owned Nerefco oil refinery near Rotterdam in The Netherlands. Bob Dudley, BP's group vice president, Gas and Power and Renewables, said, ''This project is an excellent opportunity in line with BP's strategy to add value to our business, lower emissions, and demonstrate our commitment to clean energy,'' while James Houck, ChrevronTexaco President Power and Gasification, said, ''Wind power is an increasingly viable source of power generation and this project fits with our objectives to manage carbon emissions and invest in new technologies that minimize environmental impact.''

Entergy, a major utility based in New Orleans, La., purchased a majority interest in the 80–MW Top of Iowa wind farm from Houston, Tex.-based Zilkha Renewable Energy and its partner, Midwest Renewable Energy Corp. Geoff Roberts, president and CEO of Entergy's independent power development business unit, commented on the transaction, ''This project provides Entergy with an attractive entry vehicle into the wind energy business.''

FPL Energy, a subsidiary of FPL Corp., which also owns the large utility Florida Power & Light, announced January 7 that it had added 844 MW of wind power to its power generation portfolio during 2001. The company, America's largest wind plant operator, now operates 1,830 MW of wind, of which it owns 1,439 MW. Dean Gosselin, FPL Energy vice president of wind development, said, ''We know there are many more opportunities for wind energy throughout the country and great support in many regions for new wind power facilities.''

GE Power Systems said in late February that it has signed an agreement to purchase the manufacturing capability of Enron Wind Corp., the largest U.S.-based utility-scale wind turbine manufacturer. ''The acquisition of Enron Wind represents GE Power Systems'' initial investment into renewable wind power, one of the fastest growing energy sectors,'' said John Rice, president and CEO of GE Power Systems. GE Power Systems said it expects the wind industry to grow at an annual rate of about 20%, with principal markets in Europe, the U.S., and Latin America.

Pacificorp Power Marketing (PPM), affiliated with Pacificorp, a large utility based in Portland, Ore., is playing a major role in building the market for wind in the Northwest. The company is purchasing and marketing power from three wind plants in the West, including the 261-MW Stateline Project, and has said it plans to add substantial wind capacity to its portfolio over the next few years. ''This is wind power on a grand scale,'' said PPM president Terry Hudgens of Stateline, adding, ''Stateline is a watershed event for our company and for the region. With Stateline, wind is no longer just a small niche in our supply, but has taken a position as a very real and significant part of the new electric resources the region badly needs.''

Shell Subsidiary Shell WindEnergy, Inc., announced in late January that it had purchased an 80-MW wind plant near Amarillo, Tex. ''We are delighted to have moved so quickly in making a second major investment in the U.S. wind power market,'' said David Jones, Director of Shell WindEnergy, Inc. ''Wind energy is not only the fastest-growing area of power generation worldwide but it is also one of the cleanest sources of energy.'' Shell WindEnergy also owns a 50-MW wind project in Wyoming, and Shell is developing or operating more than 1,000 MW of wind in the U.S. and Europe.

TXU, a large utility based in Dallas, Tex., announced in early January that it plans to purchase a 40% equity stake in two wind farms under construction in central Spain. TXU is already one of the largest U.S. purchasers of wind-generated electricity, buying the output of several Texas wind plants.

Utilicorp United, based in Kansas City, Mo., commissioned a 110-MW wind plant near Montezuma, Kans., in December. Commented Keith Stamm, president and chief operating officer of UtiliCorp's Global Networks Group, ''This wind farm demonstrates UtiliCorp's commitment to providing its customers with renewable and reliable energy supplies . . . While this is the first major wind power project in Kansas, the state has the potential to be a U.S. leader in wind energy.''

''This string of announcements by major energy corporations is rapidly changing the face of the wind energy business,'' said Randall Swisher, AWEA executive director. ''Coming on the heels of the industry's most successful year, in the U.S. and worldwide, it signals that wind energy is moving into the big leagues. AWEA estimates that with continued government encouragement and broad utility support, wind energy will provide at least six percent of the nation's electricity by 2020.

FPL ENERGY PLACES ORDER FOR 175 VESTAS WIND TURBINES, WITH OPTION FOR 650 ADDITIONAL UNITS

FPL Energy, LLC, the independent power production subsidiary of FPL Group Inc. (NYSE: FPL), today announced an agreement with Vestas Wind Systems A/S of Denmark for delivery of approximately 175 wind turbines and an option for an additional 650 turbines.

Delivery of the 660-kilowatt turbines will begin in 2002 and will support the planned expansion of wind-driven electricity generation projects underway at FPL Energy.

''Wind projects will be a major element of our expansion activity in 2002 and 2003,'' said Ron Green, president of FPL Energy. ''We expect to add 1,000 to 2,000 megawatts of wind power to our portfolio by the end of next year.''

FPL Energy is the largest generator of electricity form wind turbines in the United States. It currently owns and operates wind farms in eight states with more than 1,400 megawatts of capacity.

''As the leading U.S. developer of wind power, it is important for FPL Energy to secure a reliable source of wind turbines for use in projects we are developing today and into the future,'' said Mr. Green.

Approximately 80 percent of FPL Energy's electric generation is fueled by renewable

sources or clean-burning natural gas. Wind power represents nearly 28 percent of the company's 5,063-megawatt portfolio.

Last month, Congress extended the production tax credit for operating wind projects. Projects that become operational by the end of 2003 will receive a 1.7-cent per kilowatt-hour tax credit, adjusted for inflation, for a ten-year period.

''We continued our wind project development activities during the first part of this year, and the extension of the production tax credit in March gave us the green light to quickly advance these important projects to construction.

''Wind power is an important component of our nation's move toward energy independence as we harness our natural resources for production of electricity. It is a clean, renewable source of energy that can be sited, built and in operation much more rapidly than conventional fossil fuel facilities,'' Mr. Green said.

''Typically, wind farms can be constructed in six to nine months, and they are profitable from the first day of operation,'' said Mr. Green. Last year, FPL Energy built nearly 850 megawatts of wind-powered generating facilities, approximately half of what was built in the United States.

''A large percentage of our current wind facilities are equipped with Vestas turbines,'' said Mr. Green. ''We are pleased to move forward with such a reliable supplier for our future expansion.''

FPL Energy is the nation's leader in wind energy generation, with 24 wind farms in Iowa, Kansas, Texas, Minnesota, Wisconsin, Washington, Oregon and California. The company is a leading independent producer of clean energy from natural gas, wind, solar and hydroelectric. Its portfolio includes 73 facilities in operation, under construction, or in advanced stages of development in 17 states.

FPL Group, with annual revenues of more than $8 billion, is nationally known as a high quality, efficient, and customer-driven organization focused on energy-related products and services. With a growing presence in more than 17 states, it is widely recognized as one of the country's premier power companies. Its principal subsidiary, Florida Power & Light Company, serves approximately 4 million customer accounts in Florida. FPL Energy, LLC, an FPL Group energy-generating subsidiary, is a leader in producing electricity from clean and renewable fuels. FPL FiberNet, LLC is a leading provider of fiber-optic networks in Florida. Additional information is available on the Internet at www.fplgroup.com, www.fpl.com, www.fplenergy.com and www.fplfibernet.com.

Mr. KYL. I close by advising my colleagues I would be pleased to have a vote by voice.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I think we are ready to vote on amendment No. 3332.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 3332) was rejected.

Mr. REID. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. I move to table the other Kyl amendment, numbered 3333, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3370

Mr. REID. Madam President, it is my understanding the next amendment in order by virtue of the unanimous consent agreement is Graham amendment No. 3370.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask unanimous consent the 15 minutes granted on this amendment start running.

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

Mr. REID. I suggest the absence of a quorum with the time counting against the Graham amendment.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. REID. The Senator from Florida is on the floor. I ask unanimous consent the amendment now pending be temporarily laid aside for purposes of calling up this amendment.

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

AMENDMENT NO. 3346

Mr. REID. I call up amendment No. 3346.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KOHL, proposes an amendment numbered 3346.

Mr. REID. I ask unanimous consent the 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 credit for the production of electricity to include municipal biosolids and recycled sludge)

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

''(I) municipal biosolids, and

''(J) recycled sludge.''.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(H) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

''(I) RECYCLED SLUDGE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

''(9) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids removed by a municipal wastewater treatment facility.

''(10) RECYCLED SLUDGE.—

''(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

''(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.''.

(d) EXEMPTION FROM CREDIT REDUCTION.—The last sentence of section 45(b)(3), as added by this Act, is amended by inserting '', (c)(3)(H), or (c)(3)(I)'' after ''(c)(3)(B)(i)(II)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

AMENDMENT NO. 3370

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Madam President, what is the parliamentary situation at this time?

The PRESIDING OFFICER. Amendment No. 3370 is the business before the Senate. The Senator's amendment is before the Senate.

Mr. GRAHAM. Madam President, I would like to take up first amendment No. 3372.

Mr. REID. Madam President, if I could reserve my right to object, the Senator has two amendments. We do not care which one he brings up, but he cannot bring up both.

Mr. GRAHAM. I would like to bring up No. 3372.

Mr. REID. I ask the unanimous consent agreement that is now standing be modified.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Madam President, parliamentary inquiry: Is that amendment germane postcloture?

The PRESIDING OFFICER. No, it is not.

Mr. NICKLES. Is the amendment out of order?

The PRESIDING OFFICER. A point of order would lie at the appropriate time.

Mr. NICKLES. Madam President, for the information of my colleague, I am happy for him to discuss it, but I will make a point of order at the appropriate time.

Mr. GRAHAM. Madam President, I will object to the unanimous consent request by the Senator from Nevada, and we will proceed on the amendment that was the original subject of the unanimous consent.

The PRESIDING OFFICER. Objection has been heard.

The Senator from Florida.

Mr. GRAHAM. Madam President, in February the Finance Committee reported out legislation which has become the tax provisions for the energy bill. This set of provisions includes a number of incentives provided to traditional energy production, conservation, and the use of alternative fuels.

In reporting this set of proposals, the Finance Committee made the decision to defer the inclusion of an appropriate offset for the cost of these tax incentives until the bill was considered on the floor. We of course are now at that point.

The committee did not make the decision that such an offset was unnecessary. In fact, the budget which was adopted by the Congress last year for the 1st session of the 107th Congress, as well as the one which is currently under consideration by the Senate Budget Committee, requires that this legislation be budget neutral.

The amendment I had hoped to offer, and to which our friend and colleague from Oklahoma has just indicated his intent to offer a point of order that it was not germane, and therefore was not available, would have met that obligation. It would have said, simply, that before these tax provisions went into effect either through spending or through revenue from other sources, it would be our obligation to make this a budget-neutral program.

I am personally very disappointed that we are proceeding with these tax provisions, which as of now have a 10-year cost estimate of approximately $13 billion, without any effort to offset.

I strike the word ''any.'' We did, in fact, adopt a package of proposals earlier today which were stated to be a partial offset. But when you look at the cumulative number of those provisions, the total amount of additional revenue over 10 years would be $37 million, as against $13 billion of revenue loss in this program.

The President of the United States outlined very clearly in his State of the Union Message that there were three priorities for this Nation, all of which have strong bipartisan support. These three priorities were what he said could be considered without the fiscal discipline requiring that there be a method of paying for these. Those three were: Winning the war on terrorism, defending our homeland, and reviving our economy.

Congress has in fact followed the President's direction. In March we passed the Job Creation Worker Assistance Act, which included several tax incentives designed to stimulate the economy. That legislation was enacted without an offset. In a few weeks, Congress is likely to consider a supplemental appropriation to provide $37 billion for the war in Afghanistan, and that will be without an offset.

But wherever we go outside these three areas of the war, homeland security, or stimulating the economy, the effect of not providing an offset is to ask our children and grandchildren, by the reduction in the Social Security trust fund, upon which their security in retirement depends, that trust fund now becomes the means by which we pay for our current appetite.

Therefore, the amendment that is before us is an amendment which will strike one of the provisions in the tax measure. It is division H, relating to energy tax incentives, striking section 2308.

Frankly, that is an arbitrary selection and a strike. In a world in which we were prepared to pay for these various energy tax measures, I might well be prepared to support them. But in a world in which we are saying it is not important enough for us to pay for these measures, we are going to ask the next generations to pay by reducing the security upon which their retirement depends. I think that is an immoral act. I believe it is another step on the slippery slope down the mountain from fiscal discipline which this Congress worked so hard over the last decade to achieve.

We already have converted an almost $6 trillion projected 10-year surplus into a series of deficits. We have acted at a level of fiscal irresponsibility almost unknown in the history of this country. I wish we had been able to adopt the amendment that I wanted to offer, which would have said let's put aside all of these tax measures until we have developed—as a Finance Committee indicated it was the intention—a means of paying for them before they go into effect. That is not available.

Therefore, I am taking a second option to propose that we strike this and other of the provisions that have gone into the bill so we will not be in the position of having to find an offset because we have made the decision that we are going to be fiscally responsible.

I urge my colleagues to take this opportunity to say enough is enough. We are already committed to paying without offsets for the war, for homeland security, and for economic stimulation. But beyond those priorities, I think on a broad, bipartisan consensus we should ask is this issue important enough for us to do and important enough for our generation of Americans to pay for it.

Mr. BINGAMAN. Mr. President, let me first say that the general sentiment that the Senator from Florida has expressed is one I agree with—which is that I am disappointed that we have not come up with a proposal to offset the cost of the various tax provisions in this bill. I hoped we could do that in the Finance Committee.

I think that clearly would be the better course to follow, and perhaps, if we could get the support from the administration, we could move in that direction. But that has not been possible.

I am constrained to oppose the amendment of the Senator from Florida.

This amendment would simply pick out the tax provisions in the bill, and the particular provision that he finds objectionable, which is intended to maintain domestic production when world oil prices are lower. We have several provisions in the bill which are so-called countercyclical provisions, which basically say that when the oil price goes down below certain levels, there is a tax incentive for companies to stay in the business and not to shut down production in this country.

This is one of several provisions intended to maintain reasonable cashflows to keep the service sector in the oil economy working. The provision would stimulate the economy and producing areas in our country.

For that reason, I urge my colleagues to oppose the Graham amendment that has been presented to the Senate at this time.

I yield the floor.

Mr. NICKLES. Mr. President, I want to inform my friend from Florida that I will make a couple of comments and then move to table. But if he wishes to speak before the tabling motion, I would be happy to let him do so.

Mr. GRAHAM. Mr. President, I was going to close on the amendment before we take up the tabling motion.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, it had not been my intention to dwell on specifics of a particular tax measure because, as I indicated, if we had provided the offset for this, I would have voted for it.

The issue for our colleagues and for the American people is that this provision would further deplete the Social Security trust fund. That is where it is coming from. This is not revenue eligible.

As desirable as this may be, I do not believe it meets that test. It does not meet the President's test. It does not justify going into the Social Security trust fund.

I share his position and urge that our colleagues use this as a line in the sand for fiscal discipline.

Mr. NICKLES. Mr. President, my colleague and good friend is on the Finance Committee, as am I. We had an opportunity to offset it if we wanted to in committee. We didn't do it.

I don't know why this particular amendment is picked out. But I think it is a mistake to try to strike this language. This language says you can't expense over 2 years' payments that are made to keep a lease ongoing. Sometimes a person or a company may have a lease to drill or to explore. For whatever reason, they can't initiate exploration. It may be because of political problems. Maybe they can't get a particular permit. Maybe the price has

dropped so low that it is not feasible. But they want to keep the lease open. So they make payments.

Under the provision in the bill, we say those payments are expensed over 2 years. Frankly, they should be expensed in the year made.

I might note we passed countless amendments that said let us give a tax credit for this. We will reduce taxes substantially; in other words, have the taxpayers subsidize it. In this case, we are not looking for subsidies. If somebody writes a check, we are asking that they be able to expense that check.

Frankly, the provision in the Senate bill is over 2 years. It should be 1 year. When you write the check ''for lease payment,'' you could have an example where somebody has a lease to drill someplace, and a political obstruction has arisen—maybe State, maybe Federal, maybe whatever—and they are not able to commence exploration. But if they don't make payments, they would lose the lease. They should be able to expense those payments in the year made.

The bill before us says they should be able to expense it in 2 years. That is more than defensible.

I urge my colleagues to vote in favor of the motion to table the Graham amendment.

I move to table the Graham amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that immediately following the disposition of H.R. 4, the Senate proceed to executive session to consider the following judicial nominations: Calendar Nos. 777 and 780; that the Senate vote immediately on the nominations, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action; that any statements thereon be printed in the RECORD; and the Senate return to legislative session, with the preceding occurring without any intervening action or debate.

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

Mr. REID. I ask unanimous consent it be in order to ask for the yeas and nays on both nominations with one show of seconds.

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

Mr. REID. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. REID. Mr. President, I should advise all Members that we are now at the end of the debate time on this piece of legislation. We are now going to start a series of votes. We could have as many as 12 votes. We will try to complete within the time set. Everyone should try to stay as close to the Chamber as possible for this very long and arduous task of completing the bill today.

This will be the end of 6 weeks that the two managers have worked on this bill.

I ask unanimous consent that when the vote sequence commences there be 2 minutes between each vote with the time equally divided and controlled in the usual form; that no other amendments be in order; that no points of order be considered waived by this agreement; and that all votes after the first vote on the Harkin amendment be 10 minutes each.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

AMENDMENT NO. 3364 TO AMENDMENT NO. 2917

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside and that it be in order for the Senate to consider amendment No. 3364, that it be set aside, and that it be the last amendment in order on the bill now before the Senate.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to exempt receipts of tax-exempt rural electric cooperatives for the construction of line extensions to encourage development of section 29 qualified fuel sources)

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. . TREATMENT OF CERTAIN DEVELOPMENT INCOME OR COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking ''or'' at the end of clause (iv), by striking the period at the end of clause (v) and insert '', or'', and by adding at the end the following new clause:

''(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

AMENDMENT NO. 3195

Mr. REID. Mr. President, I ask that the Senate now begin voting on the Harkin amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3195.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—52

Allard	Enzi	Murkowski
Allen	Frist	Nickles
Bayh	Gramm	Roberts
Bennett	Grassley	Rockefeller
Bond	Hagel	Santorum
Breaux	Harkin	Schumer
Brownback	Hollings	Sessions
Bunning	Hutchinson	Shelby
Burns	Hutchison	Smith (OR)
Campbell	Inhofe	Specter
Cleland	Kyl	Stevens
Clinton	Landrieu	Thomas
Cochran	Lincoln	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	
Ensign	Miller	

NAYS—47

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Fitzgerald	Nelson (NE)
Cantwell	Graham	Reed
Carnahan	Gregg	Reid
Carper	Hatch	Sarbanes
Chafee	Inouye	Smith (NH)
Collins	Jeffords	Snowe
Conrad	Johnson	Stabenow
Corzine	Kennedy	Torricelli
Daschle	Kerry	Wellstone
Dayton	Kohl	Wyden
Dodd	Leahy	

NOT VOTING—1

Helms

The amendment (No. 3195) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3198

The PRESIDING OFFICER. There will now be 2 minutes equally divided prior to the vote on the motion to table the amendment by the Senator from Delaware. Who yields time?

Mr. CARPER. I yield 30 seconds to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my 30 seconds, I emphasize the point that this amendment is a significant step toward freeing the United States from dependence on OPEC oil. The front page of today's New York Times contains a statement by the Crown Prince of Saudi Arabia that, if necessary, to blackmail the United States to change our policy toward Israel, Saudi Arabia is prepared to move to the right of bin Laden. Saudi Arabia gave us bin Laden, and 15 of the 19 terrorists from 9–11. Vote for this amendment.

The PRESIDING OFFICER. Who yields time? Are there any proponents of the motion to table? Who yields time?

Mr. LEVIN. Mr. President, I yield 30 seconds to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 30 seconds.

Mr. BOND. Mr. President, we have dealt with this before. We are going to push for higher standards and fuel efficiency, but only to the extent technologically feasible to require an arbitrary figure pulled out of the air to be substituted for the procedure in the Levin-Bond amendment. It makes no sense.

I urge all our colleagues who voted for the Levin-Bond amendment to support the motion to table for jobs, for safety and for consumer choice.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. CARPER. Mr. President, the Levin-Bond amendment language which is in this bill requires the Secretary of Transportation to promulgate regulations increasing fuel efficiency standards. Our amendment changes nothing in the Levin-Bond amendment.

Our amendment says that in establishing those fuel efficiency standards, we direct the Secretary of Transportation to also consider reducing oil consumption through alternative fuels—ethanol, biodiesel, and energy from coal waste.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan has 34 seconds.

Mr. LEVIN. Mr. President, the amendment before us would fundamentally change the Levin-Bond amendment. What it does is, in effect, prejudge the outcome of the very process that we put in place, a process that we want to use to consider all of the factors that are involved, including safety factors, including the availability of alternative fuels. All of those factors ought to be considered in the regulatory process, not prejudged with an artificial mandate that we have to save 1 million barrels per day.

I hope this will be tabled and that we will then go back to the regulatory process in the Levin-Bond amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table amendment No. 3198. 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 (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—57

Allard	Dorgan	Lincoln
Allen	Ensign	Lott
Baucus	Enzi	McConnell
Bayh	Feingold	Mikulski
Bennett	Fitzgerald	Miller
Bond	Frist	Murkowski
Breaux	Gramm	Nelson (NE)
Brownback	Grassley	Nickles
Bunning	Hagel	Roberts
Burns	Hatch	Santorum
Byrd	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Cochran	Johnson	Stabenow
Craig	Kennedy	Stevens
Crapo	Kohl	Thomas
Dayton	Kyl	Thurmond
DeWine	Landrieu	Voinovich
Domenici	Levin	Warner

NAYS—42

Akaka	Durbin	Murray
Biden	Edwards	Nelson (FL)
Bingaman	Feinstein	Reed
Boxer	Graham	Reid
Cantwell	Gregg	Rockefeller
Carper	Harkin	Sarbanes
Chafee	Hollings	Schumer
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Collins	Kerry	Specter
Conrad	Leahy	Thompson
Corzine	Lieberman	Torricelli
Daschle	Lugar	Wellstone
Dodd	McCain	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3333

The PRESIDING OFFICER. There are 2 minutes equally divided on the amendment of the Senator from Arizona, Mr. KYL.

Mr. BINGAMAN. Mr. President, I made a motion to table the amendment, and the Senator from Utah will use the minute to argue for that position.

Mr. KYL. Mr. President, I will take my 1 minute to speak in favor of my amendment first. Then Senator HATCH will speak in favor of the motion to table.

This amendment strikes the alternative fuels tax credit portion of the bill. The savings would be at least $1 billion, probably closer to about $3 billion. That is not my reason for doing it. Arizona had a somewhat similar program in our State government that would have bankrupted the State and ruin political careers. It was a fiasco and it was finally terminated. It was full of loopholes and problems and costs that were never thought through.

My reason for offering the amendment is, frankly, to send a warning to all of my colleagues that we really should have thought it better through in our own Federal version. To their credit, the staff of the Finance Committee did take the advice of a lot of people at the department of transportation in Arizona and fixed a lot of the problems. My concern is they didn't fix enough and we will rue the day we voted for this provision—at least without the care that I think should have gone into it. My motion strikes the provision from the bill.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in opposition to the amendment of the Senator from Arizona, for three reasons. First, the Finance Committee passed these tax incentive provisions through by a wide margin. Second, we have solved the problems that arose during the Arizona experience. Third, this is probably the most important environmental bill that will go through our Congress this year, and maybe in a long time, because it provides for incentives for alternative fuels, alternative vehicles, and alternative fuel stations.

It is about time we start approaching these problems in an intelligent way that will take us away from being so dependent upon foreign oil. The provisions the Senator from Arizona's amendment would strike will do more toward that end than anything I know and in the end will save us money.

The provisions that this amendment would strike are almost identical to the provisions in the bipartisan CLEAR ACT, which stands for Clean Efficient Automobiles Resulting from Advanced Car Technology, which I introduced last year along with Senators JEFFORDS, ROCKEFELLER, CHAFEE, KERRY, COLLINS, GORDON SMITH, CRAPO, and LIEBERMAN.

The CLEAR ACT is the product of a carefully crafted, delicately balanced, and politically unusual alliance between auto manufacturers, truck engine manufacturers, environmental groups, fuel suppliers, and other stakeholders. I might add that these provisions, which provide strong incentives for energy conservation, are an integral part of the President's energy plan. The CLEAR ACT provisions create a fair and balanced playing field for all the advanced technologies and alternative fuel vehicles that offer the promise of both clean air and less dependency on foreign fuel.

Transportation accounts for about two-thirds of the oil consumption in the United States, and we are 97 percent dependent on oil for our transportation needs. When we consider the role transportation plays in our economy and our way of life, it is hard to believe that we rely on foreign sources for more than one-half of our oil supply. If our Nation is going to have a strategy for energy security, that strategy must begin with transportation fuels. The Kyl amendment would take away our best opportunity to provide a balanced approach to achieve this strategy.

Advances in alternative fuels and new vehicle technologies have been significant in recent years. However, three basic obstacles stand in the way of a broad shift toward their adoption. These are the higher cost of the vehicles, the higher cost of alternative

fuels, and the lack of an infrastructure of alternative fueling stations.

The CLEAR ACT provisions that this amendment would strike would lower the barriers that stand in the way of widespread consumer acceptance of these advanced technology and alternative fuel vehicles by providing tax credits to consumers who purchase hybrid electric, fuel cell, battery electric, and dedicated alternative fuel vehicles. They also would provide incentives for the purchase of alternative fuels and the development of an alternative fuel infrastructure.

Without imposing any new mandates, the CLEAR ACT provisions in this energy bill focus on the very best emerging technologies to help our citizens to enjoy the health benefits of cleaner air sooner, to help our communities to enjoy the economic benefits of attaining clean air standards sooner, and to help us reduce our consumption of foreign oil sooner than would otherwise be possible.

With the clear benefits of these provisions to less dependency on foreign oil and to cleaner air, which I might add come at a very reasonable cost in terms of revenue loss to the Treasury, it is hard to see why anyone in this body would want to strike them. Moreover, the tax credits the CLEAR ACT offers are performance based, which is to say that they are based on the principle that every dollar of tax expenditure should produce substantive air quality and energy security benefits. The greater the benefits a particular vehicle achieves, the larger the tax incentive for purchasing it.

While I do not want to assume I know the motivations of the Senator from Arizona for offering this amendment, part of it might be based on an unfortunate experience in his home State. Not long ago, a well-intentioned program to promote alternative fuel vehicles by the Arizona legislature experienced extreme cost overruns and failed to provide the promised energy and environmental benefits. I want to assure the Members of this body that we have studied the Arizona experience, we have identified the inherent weaknesses of that model, and we have been careful to avoid each one of them in this legislation.

With the CLEAR ACT provisions, until a new advanced vehicle is purchased, until new infrastructure has been installed, or until alternative fuel is placed in the tank of a dedicated alternative fuel vehicle, there will be no cost to the Treasury. And when a cost is incurred, it will be a small cost relative to the resulting environmental benefits and energy savings.

To me it is inconceivable that this Senate would pass an energy policy bill without addressing the issue of how to increase the public's adoption of alternative fuel and advanced technology vehicles. Although gasoline vehicles are 90 percent cleaner today than 30 years ago, the significant increase in the total number of vehicles on the road and the miles traveled per year by each vehicle means that little progress has been made in reducing the contribution of motor vehicle emissions to air pollution.

Similarly, despite improvements in fuel economy compared to 30 years ago, more petroleum than ever is used in motor vehicles and U.S. dependence on imported oil is at a record high and increasing. Alternative fuel vehicles and advanced technology vehicles, such as hybrids and fuel cells, significantly reduce the use of gasoline and diesel and have dramatically reduced emissions. Each dedicated natural gas vehicle displaces 100 percent of the gasoline or diesel that otherwise would be used in that vehicle.

Conventional gasoline and diesel motor vehicle technology has come about as far as it can in terms of fuel economy and emissions. The further gains that are needed to allow the United States to achieve energy security and clean air require nonpetroleum vehicles and hybrid and fuel cell vehicles. The nation simply cannot achieve its goals in these areas with these conventional vehicles. Striking these provisions would be a big mistake, and I urge my colleagues to vote against the Kyl amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 3333. The clerk will call the roll.

The 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 91, nays 8, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—91

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

NAYS—8

Burns	Gramm	McCain
Feingold	Kyl	Nickles
Fitzgerald	Lott	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. BINGAMAN. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3370

The PRESIDING OFFICER. There will now be 2 minutes evenly divided before a vote on the motion to table the Graham amendment.

The Senator from Florida.

Mr. GRAHAM. Mr. President, this amendment is not about the underlying provision, but I think it is worthwhile for the Members to understand what the underlying provision would do.

The current tax law, consistent with generally accepted accounting procedures, provides that when royalty payments are made by oil and gas producers to the landowner during a period when there is no oil or gas production, during a suspension period, that those costs must be capitalized, and then they can be recovered when there is actual oil and gas production. That is both the accounting and tax law today.

We are about to split the two and say that for tax purposes they can be expensed within a 2-year period. If that sounds a little bit like some of the things that Enron was doing on its books, the answer is it is a lot like what Enron was doing on its books.

But the fundamental issue is, without examination, we are about to ask the Social Security trust fund to pay for the additional cost of this preferential depreciation treatment. I believe, if this is a worthy provision, it is worthy that somebody come up with an offset so that we decide who pays for it, not our children and grandchildren, by depletion of the Social Security trust fund.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, the provision that the Senator from Florida seeks to take out of the bill is part of a very carefully balanced and level tax package that should remain in this bill. We should table this amendment.

Simply stated, the situation is, if you produce oil, you pay a royalty. You can deduct it. But if the price of oil drops, you have to pay delayed rental payments, and you pay the payments to the Government. You should be able to deduct those payments as you can deduct royalty payments when they are paid. That is what the bill says. That provision should be kept in the bill.

Mr. President, I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, this is the only part of the bill that would encourage small drillers to explore. In fact, this is as any other business is treated. The underlying bill

says, if you pay an expense, you get to deduct it in the year in which you make it.

This amendment would take that away and make you amortize it, even though you already paid it. And you may not even find oil. Please table this amendment. It would be unfair not to do so.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the motion to table amendment No. 3370. 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 73, nays 26, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—73

Allard	Dorgan	McConnell
Allen	Durbin	Miller
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feinstein	Nelson (NE)
Biden	Fitzgerald	Nickles
Bingaman	Frist	Reid
Bond	Gramm	Roberts
Breaux	Grassley	Rockefeller
Brownback	Hagel	Santorum
Bunning	Harkin	Sessions
Burns	Hatch	Shelby
Byrd	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Cantwell	Inhofe	Specter
Carper	Jeffords	Stabenow
Chafee	Johnson	Stevens
Cleland	Kohl	Thomas
Cochran	Kyl	Thompson
Conrad	Landrieu	Thurmond
Craig	Levin	Voinovich
Crapo	Lincoln	Warner
Daschle	Lott	Wyden
DeWine	Lugar	
Domenici	McCain	

NAYS—26

Akaka	Feingold	Mikulski
Boxer	Graham	Nelson (FL)
Carnahan	Gregg	Reed
Clinton	Hollings	Sarbanes
Collins	Inouye	Schumer
Corzine	Kennedy	Snowe
Dayton	Kerry	Torricelli
Dodd	Leahy	Wellstone
Edwards	Lieberman	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. Mr. President, this should be the last amendment prior to final passage.

AMENDMENT NO. 3372

The PRESIDING OFFICER. At this time, there are 2 minutes, evenly divided, with respect for amendment No. 3372, offered by Senator GRAHAM of Florida.

The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield my time to the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise in support of the amendment offered by the senior Senator from Florida. As we all know, our budget position has changed dramatically over the past year, and we are now facing projected deficits for years to come. If we are to climb out of the deficit hole, we absolutely must commit to a path of fiscal responsibility. That means a lot of things. First and foremost, it means paying for the spending and tax cut bills we pass.

As it stands, we have not paid for this legislation. The tax package alone digs our deficit hole another $14 billion deeper. As we approach the retirement of the largest generation in history, the baby boomers, we face enormous fiscal challenges. Obviously, Social Security needs strengthening, Medicare must be modernized, and our long-term care system is in desperate need of reform.

Mr. President, I urge my colleagues to support this amendment and put us back on the path to fiscal responsibility.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, for the information of the sponsors and my colleagues, we could make a point of order that this amendment is not germane because it is not postcloture. I am not going to do that because I was informed they were going to have the same thing offered to the underlying bill. I think it is in the interest of Senators to conclude the bill, and the best way is to table this amendment. This amendment is not germane postcloture.

I happen to be on the Finance Committee. All Democrats and Republicans had chances to offer tax increases, and this amendment says don't let this bill take effect in any of the tax provisions until we have tax increases enacted into law. I think that is ridiculous. It is a good way to kill the provisions that the Senator from Montana and the Senator from Iowa worked to put in the bill.

Mr. President, I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, is there time remaining on the amendment?

The PRESIDING OFFICER (Mr. DAYTON). All time has expired.

Mr. REID. Mr. President, I ask unanimous consent that upon disposition of all amendments—the list is already before the Senate—the substitute amendment, as amended, be agreed to; that the bill, as amended, be read a third time; that the Senate then proceed to Calendar No. 145, H.R. 4, the House-passed energy bill; that all after the enacting clause be stricken, and the text of S. 517, as amended, be inserted in lieu thereof; that the bill be advanced to third reading; that the Senate proceed to a vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate; provided further, S. 517 be returned to the calendar; that the conferee ratio be the following: The Energy Committee 6 to 5, and the Finance Committee 3 to 2, with this action occurring with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Reserving the right to object, and I will not object, I do object to the statement just made that this amendment provides that we will either come into balance by reducing spending or increasing revenue.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. We do not have a choice to let Social Security pay for it.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

The question is on agreeing to the motion to table amendment No. 3372. The yeas and nays have been ordered. The clerk will call the roll.

The 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 70, nays 29, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—70

Akaka	Edwards	Murkowski
Allard	Ensign	Nelson (NE)
Allen	Enzi	Nickles
Baucus	Fitzgerald	Reid
Bayh	Frist	Roberts
Bennett	Grassley	Rockefeller
Bingaman	Hagel	Santorum
Bond	Hatch	Schumer
Breaux	Hutchinson	Sessions
Brownback	Hutchison	Shelby
Bunning	Inhofe	Smith (NH)
Burns	Inouye	Smith (OR)
Byrd	Jeffords	Snowe
Campbell	Johnson	Specter
Carnahan	Kohl	Stevens
Cleland	Kyl	Thomas
Cochran	Landrieu	Thompson
Collins	Leahy	Thurmond
Craig	Lieberman	Torricelli
Crapo	Lincoln	Voinovich
Daschle	Lott	Warner
DeWine	Lugar	Wyden
Domenici	McConnell	
Dorgan	Miller	

NAYS—29

Biden	Durbin	Levin
Boxer	Feingold	McCain
Cantwell	Feinstein	Mikulski
Carper	Graham	Murray
Chafee	Gramm	Nelson (FL)
Clinton	Gregg	Reed
Conrad	Harkin	Sarbanes
Corzine	Hollings	Stabenow
Dayton	Kennedy	Wellstone
Dodd	Kerry	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3239

The PRESIDING OFFICER. The pending business is the Brownback amendment No. 3239.

Mr. BINGAMAN. I suggest the Senator from New Jersey and the Senator from Kansas be allowed to explain that amendment.

The PRESIDING OFFICER. There are 2 minutes equally divided.

Mr. BROWNBACK. Mr. President, this is a compromise approach on a very difficult issue. It involves taking out the underlying language on the CO_2 registry. It will put in place a 5-year voluntary program on registering of CO_2 emissions. After that period of time, if 60 percent are not reported, it does put in place a trigger mechanism, a mandatory reporting, unless there is an affirmative vote by this body which is required in the bill to remove that reporting requirement.

It is a bipartisan approach. It is a compromise approach on a tough topic. It is voluntary. It is market oriented. It provides companies a way to limit their risk and exposure on CO_2 issues of anything that might happen in the future and provides a registry for companies that want to voluntarily step forward and work to reduce those CO_2 emissions. They may want to put in a new powerplant that is coal fired to protect themselves for CO_2 exposures.

This is a tough and complex topic. I think we have struck the right balance with this amendment. I urge my colleagues to vote for it.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent the Senator from New Jersey be given a minute to explain his perspective.

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

Mr. CORZINE. Mr. President, we want to make sure in this compromise amendment that the perfect not be the enemy of the good. This is not everything anyone would want, but we have struck a compromise with voluntary reporting requirements and database buildup and recognition of actions by industry to control CO_2. We will look at it in 5 years.

If the threshold is not met, mandatory requirements will come into play. This is an outstanding compromise where people worked very hard on a complex issue to get to a bipartisan middle ground. I hope we will all support it.

Mr. BINGAMAN. I think it is appropriate to dispose of this amendment by voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3239.

The amendment (No. 3239) was agreed to.

Mr. HAGEL. Mr. President, with the adoption of this amendment, the Senate has affirmed its commitment to dealing with the reporting of greenhouse gases in a voluntary, incentive-based manner.

This amendment provides for a voluntary registry for the reductions in greenhouse gas emissions. Under this type of provision, industries will have an opportunity to record reductions made in their emissions and receive credit for those reductions.

The legislative record should clearly note that the provisions creating the mandatory reporting of greenhouse gases originally contained in the underlying legislation will no longer take effect unless the voluntary registry does not achieve a critical mass of participation. If the voluntary registry system generates sufficient participation, the mandatory reporting of greenhouse gas emissions will never take effect.

This amendment is not without problems, nor do I believe it is the best way to achieve robust participation in a voluntary registry. It contains several impediments that should be addressed in conference.

The memorandum of agreement does not clearly spell out the roles of the various federal agencies in the execution of the duties proscribed. This is particularly troublesome for a voluntary registry. Those entities wishing to participate need the greatest clarity and certainty in order to have the greatest incentive to participate. Lack of certainty creates a disincentive and should be addressed in conference.

There are onerous civil penalties contained is this amendment that should be removed. Greater baseline protection needs to be provided to ensure entities participating gain the rightful recognition for their efforts.

Furthermore, I hope the conference will address the fundamental question of whether any ''trigger'' is necessary. The mandatory reporting of greenhouse gas emissions has no true purpose. We already garner information on the totality of U.S. emissions through annual inventories established within and reported by the Energy Information Administration and the Environmental Protection Agency. The only purpose for the mandatory reporting of greenhouse gas emissions is to create the mechanism for the regulation of carbon dioxide. This option has been dismissed by the current Administration, and I would hope the final legislation does not create a mechanism to help bring this about in the future.

Numerous other options for structuring a voluntary greenhouse gas emissions registry were discussed during the discourse on Title XI of this legislation. Senator VOINOVICH and I offered an amendment on April 18, 2002. It would have established a new and enhanced national greenhouse gas registry to record and recognize voluntary reductions of greenhouse gas emissions.

That registry was supported by a wide cross-section of American industry, the very entities who would be participating in such a registry. I have included a copy of an April 16 letter sent to all Senators and ask unanimous consent that it be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

Mr. HAGEL. This amendment could provide an alternative structure for a voluntary registry for consideration in the conference committee. It was created in consultation with many other Senators and reflects the expertise of their input.

It is a workable framework for a registry that would be robust and gain the greatest and most meaningful participation from American industry. This, after all, should be our goal in the final outcome.

I appreciate the work of the sponsors of the amendment just adopted in putting the Senate on record in favor of dealing with the reporting of greenhouse gas emissions in a voluntary manner. And I look forward to the conference committee improving upon the work begun in the Senate to provide for the implementation of a voluntary greenhouse gas emissions registry.

EXHIBIT 1

April 16, 2002.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR DASCHLE: We write to encourage your support for a draft amendment to the Energy Bill that proposes substantial improvements to Title XI, including the establishment of a more effective national registry of greenhouse gas emissions and a more practical framework encouraging further voluntary efforts to reduce those emissions without harming our economy, our workers or our communities.

Without the needed changes, Title XI of the Energy Bill would impose an unnecessary federal mandate to track and report greenhouse gas emissions on large and small businesses, as well as farmers, ranchers, some hospitals, universities, school systems and more. And yet, the intent of this costly and burdensome mandate is redundant. The federal government, without any federal mandate, already compiles an annual inventory of greenhouse gas emissions in compliance with our national commitment to the ratified UN Framework Convention on Climate Change.

The draft amendment would establish a new and enhanced system to report and verify actions taken to reduce or avoid greenhouse gas emissions and provide transferable credits to persons who do. By offering appropriate recognition of actions taken, the amendment will provide powerful incentives to participate without harming the economy, all the while strengthening our national climate policy strategy.

The draft amendment provides a constructive, achievable and effective strategy to strengthen and improve the voluntary reporting of greenhouse gas emissions and the reporting of actions taken to reduce or avoid those emissions. We encourage you to support the amendment and work with Senators of both parties to secure its adoption.

Thank you for your consideration of our views. While we have some additional concerns regarding the policy provisions of the bill, especially those provisions that appear to call for a target and a timetable, we are hopeful these issues will be resolved prior to final passage of the bill. In the meantime, we look forward to working with you on developing an effective climate policy strategy as part of our national energy policy.

Sincerely,

Alliance of Automobile Manufacturers, American Architectural Manufacturers Association, American Boiler Manufacturers Assn, American Farm Bureau Federation, American Highway Users Alliance,

American Iron and Steel Institute, American Petroleum Institute, American Portland Cement Alliance, American Public Power Association, American Textile Manufacturers Institute,

Associated General Contractors of St. Louis, Associated Petroleum Industries of Pennsylvania, Association of American Railroads, Automotive Parts Rebuilders Association, Danville [IL] Area Chamber of Commerce,

Edison Electric Institute, Gas Appliance Manufacturers Association, Greater Bristol [CT] Chamber of Commerce, Greater Cincinnati Chamber of Commerce, Greater Merced [CA] Chamber of Commerce,

Greater Victoria [TX] Chamber of Commerce, Idaho Mining Association, Illinois Valley Area Chamber of Commerce & Economic Development, Integrity Research Institute, IPC—The Association Connecting Electronic Industries,

Kansas Petroleum Council, Leavenworth-Lansing [KS] Area Chamber of Commerce, Lorain [OH] County Chamber of Commerce, Louisiana Association of Business and Industry, Metropolitan Evansville [IN] Chamber of Commerce,

Naperville [IL] Area Chamber of Commerce, National Association of Manufacturers, National Mining Association, National Rural Electric Cooperative Association, National Society of Professional Engineers,

Nuclear Energy Institute, O'Fallen [IL] Chamber of Commerce, Salt Institute, South Dakota Farm Bureau Federation, Texas Association of Business and Chambers of Commerce,

The Siouxland [IA] Chamber of Commerce, U.S. Chamber of Commerce, Utah Rural Telecom Association, Wisconsin Grocers Association.

Mr. VOINOVICH. Mr. President, I rise today to speak on the Corzine/Brownback amendment No. 3239. This amendment replaces the existing language in Title 11 which would have created a mandatory registry for the reporting of greenhouse gases and replaces it with a voluntary program. I am pleased that the Senate has rejected the concept of mandating greenhouse gas reports at this time. While the amendment does contain language which would trigger compulsory reporting in five years if sixty percent of the national aggregate anthropogenic greenhouse gases are not represented on the voluntary registry, we do not expect this trigger to ever be activated since presently thirty percent of the gases are already reporting under the Clean Air Act by the utility sector.

I had joined with Senator HAGEL in offering an alternative amendment which would have provided a much more robust voluntary reporting program with a transferable credit program and baseline protection. This would have provided a clear incentive to encourage maximum participation.

The approach that Senator HAGEL and I took in our amendment would have accomplished three key objectives: (1) It will help us get the full picture on climate change with real incentives for voluntary participation in the registry; (2) It will make sure that picture reflects what is really happening by providing for accurate measurement and verification of emission reductions, and (3) It is forward looking because it creates a process for establishing transferable credits that can be used in voluntary transactions for any future potential regulatory program.

Unfortunately, due to cloture limitations, the Senate ran out of time to fully consider our amendment, yet I am pleased that Senators CORZINE and BROWNBACK adopted our idea of a voluntary registry to replace the overly burdensome mandatory program contained in the original bill. At this point in time I do not think it is wise public policy to mandate the reporting of greenhouse gases, and I am pleased that the Senate agrees with this point.

AMENDMENT NO. 3146, WITHDRAWN

Mr. BINGAMAN. Mr. President, I ask unanimous consent amendment No. 3146 be withdrawn.

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

The amendment (No. 3146) was withdrawn.

AMENDMENT NO. 3355, AS MODIFIED

Mr. BINGAMAN. I ask unanimous consent amendment No. 3355 be modified to reflect changes to the fuel cell credit adopted as part of the amendment by Senator MURRAY earlier this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 3355), as modified, is as follows:

In Division H, beginning on page 103, line 1, strike all through page 105, line 12, and insert the following:

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

''(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 30 percent of the basis of such property, or

''(II) $500 for each 0.5 kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term ''qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the basis of such property, or

''(II) $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

''(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

''(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

''(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Mr. BINGAMAN. I also ask unanimous consent that the Senator from New Jersey, Mr. TORRICELLI, be listed as a cosponsor of the amendment.

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

AMENDMENTS NOS. 3343, 3344, 3362, 3363, 3346, AS MODIFIED, 3335, AS MODIFIED, 3364, 3360, AND 3355, AS MODIFIED, EN BLOC

Mr. BINGAMAN. I ask unanimous consent that notwithstanding rule XXII, the following amendments be agreed to en bloc and the motion to reconsider be laid on the table. The amendments are as follows: Nos. 3343, 3344, 3362, 3363, 3346, as Modified, 3335, as Modified, 3364, 3360, and 3355, as modified.

Mr. MCCAIN. Reserving the right to object, would the Senator explain what amendment No. 3346 is?

Mr. BINGAMAN. This is an amendment by Senator KOHL. I can get the description in a minute on the precise provisions. There is credit for electricity produced from municipal biosolids and recycled sludge.

Mr. MCCAIN. Electricity manufactured from biosolids?

Mr. BINGAMAN. Produced from municipal biosolids and recycled sludge.

Mr. MCCAIN. Municipal biosolids?

Mr. BINGAMAN. I am sure the Senator from Arizona is very familiar with biosolids.

Mr. MCCAIN. Could I ask the manager a question? I understand we have tax credit for chicken litter, biowaste. Excuse me? Bovine, pig, dead animal, and now biosolids; is that correct?

Mr. BINGAMAN. We thought it was only fair.

Mr. MCCAIN. I don't want to hold up the Senate, but what about man's best friend, the dog? What about the pigeon, the noble pigeon?

Mr. BINGAMAN. If the Senator has an amendment.

Mr. MCCAIN. Should there be some consideration of these? Shouldn't they make a deposit to reduce our energy requirements?

Mr. BINGAMAN. We would be glad to consider any germane amendment the Senator would like to call up.

Mr. MCCAIN. I thank the sponsor for that consideration.

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

The amendments (Nos. 3343, 3344, 3362, 3363, 3346, 3335, and 3360) were agreed to, as follows:

AMENDMENT NO. 3343

(Purpose: To modify the credit for the production of fuel from nonconventional sources to include production of fuel from agricultural and animal waste)

In Division H, on page 202, between lines 17 and 18, insert the following:

''(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

''(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

''(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

AMENDMENT NO. 3344

(Purpose: To amend the Internal Revenue Code of 1986 to clarify excise tax exemptions for agricultural aerial applicators)

In Division H, on page 216, after line 21, add the following:

SEC. ___. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

AMENDMENT NO. 3362

(Purpose: To amend the Internal Revenue Code to modify the definition of Rural Airport)

At the appropriate place insert the following:

SEC. ___. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting '', or'' and by adding at the end the following new subclause:

''(III) is not connected by paved roads to another airport.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

AMENDMENT NO. 3363

(Purpose: To amend the Internal Revenue Code to exempt small seaplanes from ticket taxes)

At the appropriate place insert the following:

SEC. ___. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEA PLANES.

(a) The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after 2002.

AMENDMENT NO. 3346

(Purpose: To modify the credit for the production of electricity to include municipal biosolids and recycled sludge)

On page 17, between lines 8 and 9, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G), and by adding at the end the following new subparagraphs:

''(H) municipal biosolids, and

''(I) recycled sludge.''.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(G) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

''(H) RECYCLED SLUDGE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (10) and by inserting after paragraph (7) the following new paragraphs:

''(8) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids

removed by a municipal wastewater treatment facility.

''(9) RECYCLED SLUDGE.—

''(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

''(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

AMENDMENT NO. 3335

(Purpose: To amend the Internal Revenue Code of 1986 to extend the credit for the production of fuel from nonconventional sources with respect to certain existing facilities)

In Division H, on page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2005, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

AMENDMENT NO. 3360

(Purpose: To provide incentives for water conservation through the installation of water submeters)

In Division H, on page 137, between lines 7 and 8, insert the following:

SEC. ___. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

''SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

''(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

''(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

''(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

''(2) which permits reading of water price and usage signals on at least a daily basis.

''(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(f) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179D'' each place it appears in the heading and text and inserting '', 179D, or 179E''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 179E(f)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179E,'' after ''179D,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. ___. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

The amendments (Nos. 3364 and 3355) were agreed to.

ADOPTION OF AMENDMENTS NOS. 3059 AND 3258 VITIATED

Mr. BINGAMAN. I ask unanimous consent the adoption of the amendments numbered 3059 and 3258 be vitiated.

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

AMENDMENT NO. 3380

Mr. BINGAMAN. I ask unanimous consent that the amendment numbered 3380 be in order notwithstanding rule XXII; that the amendment numbered 3380 be agreed to, and the motion to reconsider be laid on the table.

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

The amendment (No. 3380) was agreed to.

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

AMENDMENTS NOS. 3196 AND 3209, AS MODIFIED

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, it now be in order to consider the amendments numbered 3196 and 3209; that the amendments be modified by the changes at the desk, the amendments be agreed to, and the motion to reconsider be laid upon the table.

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

The amendments (Nos. 3196 and 3209), as modified, were agreed to, as follows:

AMENDMENT NO. 3196

(Purpose: To express the sense of the Senate concerning electric power transmission systems)

In the appropriate place in subtitle A of title II, insert the following:

SEC. 2. ELECTRIC POWER TRANSMISSION SYSTEMS.

The Federal Government should be attentive to electric power transmission issues, including issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.

AMENDMENT NO. 3209

(Purpose: To carry out pilot programs that aid accurate carbon storage and sequestration accounting)

On page 487, between lines 18 and 19, insert the following:

SEC. 13. CARBON STORAGE AND SEQUESTRATION ACCOUNTING RESEARCH.

(a) IN GENERAL.—The Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall conduct research on, develop, and publish as appropriate, carbon storage and sequestration accounting models, reference tables, or other tools that can assist landowners and others in cost-effective and reliable quantification of the carbon release, sequestration, and storage expected to result from various resource uses, land uses, practices, activities or forest, agricultural, or cropland management practices over various periods of time.

(b) PILOT PROGRAMS.—The Secretary of Agriculture shall make competitive grants to not more than 5 eligible entities to carry out pilot programs to demonstrate and assess the potential for development and use of carbon inventories and accounting systems that can assist in developing and assessing carbon storage and sequestration policies and programs. Not later than 1 year after the date of

enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies and with other interested parties, shall develop guidelines for such pilot programs, including eligibility for awards, application contents, reporting requirements, and mechanisms for peer review.

(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall submit to Congress a report on the technical, institutional, infrastructure, design and funding needs to establish and maintain a national carbon storage and sequestration baseline and accounting system. The report shall include documentation of the results of each of the pilot programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Agriculture $20,000,000 for fiscal years 2003 through 2007.

Mr. WELLSTONE. Mr. President, I rise today to speak to an important amendment on behalf of myself and Senator WYDEN regarding carbon sequestration.

The Energy Policy Reform Act and the debates we have had on it have sought to achieve an integration of energy and environmental policy including new and far reaching provisions to help this nation meet its international obligations to address global climate change. The amendment I propose today with Senator WYDEN provides an important complement to provisions in S. 517, the Farm Bill that already passed the Senate, and the President's recent announced plans to address global climate change. These other provisions would advance research on carbon sequestration from the agriculture and forest sectors, establish credible methods for measuring carbon sequestered for individual projects, and create a national greenhouse gas emissions database and registry at the project level.

The amendment takes a comprehensive view of both carbon sequestration and carbon storage—beyond the project level—to address what is happening over time to release and sink carbon for the full range of land uses, management practices and natural resources. The amendment creates a competitive grant pilot program for state and multi-state areas in a range of regional forest, agriculture and ecosystem settings. The purpose is to help us better understand what is needed for a national carbon sequestration inventory and accounting system that would be credible and cost-effective.

The amendment will enable us to assess the overall effectiveness and potential contributions of new programs and policies to encourage actions which offer a broad range of benefits to the environment. To do this, the amendment seeks to translate scientific information into easily understood means for landowners and others to apply in making decisions on their current practices. This information will distinguish practices which offer additional environmental benefits that may be associated with carbon storage or sequestration, such as flood and erosion prevention, soil conservation, fertility and productivity improvements, improved water quality and management, protection and restoration of ecosystems and habitat, and improved management of agricultural lands and forests including reforestation practices. It also would include information for landowners and others on how to assess the economic and financial costs and benefits of land uses that sequester or store carbon.

If we make this investment now, within the next 5 years we should be prepared to identify real incentives not only for forest and agriculture but also for natural resources and land use management which will show up also in our national accounts. I also anticipate that some policy changes supported by this information may enable our agriculture and forest sectors to realize an economic gain from the practices themselves.

The practices that will be encouraged by this amendment make good common sense and good economic sense. The State of Minnesota, with its rich forest and agricultural base and water resources, has a lot to lose from global warming.

While we have much to lose, we also have much we can contribute to reducing the problem of global climate change and gain in the process. If done properly, carbon storage and sequestration offer a welcome opportunity to draw together the interests and talents of the environmental community, agriculture, forest and timber products industries. Carbon sequestration is not the only or even major answer to our challenges in addressing climate change, but it is an important complement to other steps we must take to increase energy efficiency and conservation, increase use of renewable fuels and put in place an effective program for greenhouse gas emissions control.

This research must involve a wide range of perspectives and interests. The Secretary of the Department of Agriculture is directed to work in collaboration with other federal agencies, on all aspects of carrying out the purposes of the amendment. These agencies should include the Environmental Protection Agency, the National Aeronautics and Space Administration, the Departments of Commerce, Energy, and the Interior, as well as several agencies within the Department of Agriculture, including the Agricultural Research Service, the Cooperative State Research, Education and Extension Service, the Forest Service, and the Natural Resources Conservation Service.

Because forest and agriculture sectors play such a critical role in carbon storage and sequestration, the pilot areas should have a high percentage of land that is forest or cropland. The U.S. Department of Agriculture already tracks this information through its Natural Resources Conservation Service National Resources Inventory, the last being carried out in 1997.

Pilot State or multi-State areas should not only be capable of carrying out the research on a technical level, they should have demonstrated or be interested in pursuing the kind of policies and programs to encourage environmentally beneficial carbon storage and sequestration practices that this amendment seeks to advance. This research takes research and information already available at different levels of government, and in many different groups, and integrates it in a way that we can develop and assess these means of encouraging helpful practices.

The amendment calls for an approach to carbon storage and sequestration accounting based on sound science. It is our intention that the Peer Review process called for in the amendment would include public and private science and policy groups as well as by the user community. This peer review is important particularly in regard to translating science into information in a form that provides easy access to landowners to encourage them to consider environmentally beneficial carbon storage and sequestration practices in their decision making.

Eligible entities for the pilot program grants would include land grant colleges or universities as defined both by the National Agricultural Research, Extension and Teaching Policy Act of 1977 and tribal land grant institutions established through the Equity in Educational Land Grant Status Act of 1994. These research institutions, as well as others with demonstrated experience in the field should be included among the eligible entities as should state or state consortia or non-profits be considered for these grants, especially since we want to see the results used to move forward on the policy and program front to encourage these practices.

The grant-eligible programs should also demonstrate that they would include some means of ensuring the participation of governmental and non governmental interests that would be affected by the pilot program.

Carbon sequestration and storage potentially serve both environmental and economic interests. I have letters of endorsement from the American Farmland Trust, the National Farmer's Union, The Institute for Agriculture and Trade Policy, Environmental Defense and Nature Conservancy, as well as from leading soil and forest scientists in Minnesota, Kansas, Ohio, and Oregon. Many others who are prominent in the environmental, agricultural, forest, and research communities believe this amendment takes us in the right direction.

AMENDMENT NO. 3230

Mr. BINGAMAN. I ask unanimous consent, notwithstanding rule XXII, it be in order to consider amendment No. 3230; that Senator CANTWELL and Senator SMITH of Oregon be added as cosponsors, the amendment be agreed to,

and the motion to reconsider be laid upon the table.

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

The amendment (No. 3230) was agreed to, as follows:

(Purpose: To provide additional borrowing authority for the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration and to carry out other duties of the Administrator of the Bonneville Power Administration)

On page 62, between lines 3 and 4, insert the following:

SEC. 2___. BONNEVILLE POWER ADMINISTRATION BONDS.

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—

(1) by striking the section heading and all that follows through ''(a) The Administrator'' and inserting the following:

''SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.

''(a) BONDS.—

''(1) IN GENERAL.—The Administrator''; and

(2) by adding at the end the following:

''(2) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available, to remain outstanding at any 1 time—

''(A) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

''(B) to implement the authorities of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).''.

AMENDMENT NO. 3366

Mr. REID. Mr. President, on the list, it is my understanding the only remaining amendment is numbered 3366 offered by the Senator from Michigan, Mr. LEVIN. It has been cleared on this side, and it has been cleared by Senator HATCH from the Finance Committee. I ask if the amendment has been cleared by the managers of this bill.

Mr. MURKOWSKI. Those have not been cleared on our side.

Mr. REID. This is No. 3366 offered by Senator LEVIN.

Mr. MURKOWSKI. If the Senator will wait a moment, that was No. 3366?

Mr. REID. No. 3366.

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.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. MURKOWSKI. Mr. President, we cleared the pending amendment on our side. We have no objection. It is No. 3366.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3366) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BROADBAND TAX CREDIT LEGISLATION

Mr. KENNEDY. Mr. President, a number of us have come to the floor today to discuss legislation to provide tax incentives to accelerate ''broadband'' high-speed Internet access across the country. The widespread availability of broadband technology is essential to ensuring the United States' technological leadership in the world. We must make a commitment to a national broadband policy and do it now.

The reach of the information revolution to our Nation's rural and urban underserved areas depends on affordable Internet access. For far too long, these regions have found themselves disconnected from the information age because of their geography and high-cost of service. One of our greatest challenges for the future is to close the growing economic gap in access to computers and the Internet. If we do not act to close it now, this ''digital divide'' will become the opportunity of our time.

Several policy initiatives have been proposed to stimulate broadband deployment including deregulation, community planning grants, and low-interest loans to name a few. The broadband tax credit proposal is an important first step that has gained widespread support in Congress because it provides tax credits to those who take broadband to places where the market is not taking it, both geographically and technologically. So we are here to discuss the importance of that proposal and of ensuring its passage this year.

The Senator from West Virginia is the sponsor of the preeminent broadband tax credit bill, the Broadband Internet Access Act, of which I am pleased to be an original cosponsor, as is my friend from Oregon. Senator ROCKEFELLER had led the fight to bring broadband access to all Americans, and first introduced this bill along with Senators Moynihan, KERRY, and others. He reintroduced the Broadband Internet Access Act, S. 88, last year, and it has 64 cosponsors from both sides of the aisle. A companion bill in the House has 194 cosponsors. A version of Senator ROCKEFELLER's bill was reported out of the Senate Finance Committee as part of the stimulus package that was sent to the floor last December. I commend my friend from West Virginia for his leadership on this and many other technology issues so important to our nation's economy.

Senator SMITH and I have introduced a measure very similar to Senator ROCKEFELLER's bill as an amendment to the energy legislation now before this body. Under this proposal, any company providing the required level of service, whether by telephone, cable modem, terrestrial wireless, satellite, or any other technology, would be eligible to claim the credit. The proposal provides a 10 percent tax credit for investment in ''current-generation'' broadband services and a 20 percent credit for investment in ''next generation'' services. Current generation broadband is typically 5–20 times faster than conventional ''dial-up'' Internet service and capable of transmitting text and photos very quickly. Current generation broadband can also transmit video imagery, but with low quality. Next generation broadband is hundreds of times faster than dial-up and transmits video imagery with great speed and clarity, making it ideal for applications like telemedicine, distance learning, and video conferencing.

In my home State of Massachusetts, I saw firsthand how these types of advanced Internet services transformed the economy of the entire Berkshire County region. Like may rural areas across the Nation, the Berkshires were considered to be too far away from the Internet portals to interest providers. But business and Government leaders began an initiative called ''Berkshire Connect,'' that resulted in a partnership with providers to build a multimillion dollar network of microwave towers and fiber-optic lines linking the county's scenic villages and small cities with fast Internet access.

The project put the Berkshires on an equal footing with the rest of the global marketplace, because the Internet levels the playing field between large and small businesses and rural and urban areas. I am confident that passage of the broadband tax credit measure will bring similar success stories across the Nation like we have seen in the Berkshires for more residents and businesses.

The proposal provides $540 million in tax credits for broadband deployment to wire an estimated 5.4 million additional U.S. homes with current generation broadband and 700,000 more with next generation broadband. Today, 11 million U.S. homes are wired with current generation broadband and 340,000 with next generation broadband. This measure would increase those numbers by 50 percent and 200 percent respectively.

Senator SMITH and I filed this measure as an amendment to the energy legislation because we see a clear connection between Internet use and energy savings. One former Energy Department official has testified before Congress that by reducing shopping trips and retail office space, e-commerce was responsible for energy use staying flat in the last 1990s while the economy was expanding sharply. And a number of studies have found that telecommuting saves 1–2 percent of total annual gasoline consumption and has the potential to save more. Meanwhile, economists now recognize that telecommuters can avoid the ''congestion costs'' which each additional driver imposes on others in terms of lost time and excess fuel from sitting in traffic jams. Princeton Professor Paul Krugman has estimated Atlanta's congestion cost at $3,500 a year for each

additional driver. And associated savings come in the area of the environment. A 1999 study by the International Telework Association and Council found that the average telecommuter saves 28.5 pounds of pollution emissions every day he or she works from home.

The Senator from West Virginia was just discussing with me a number of other important benefits of broadband, apart from energy savings. I wonder if he would take a moment to describe those.

Mr. ROCKEFELLER. I would be happy to do so, and I thank the Senator from Massachusetts. For years now, it has been a goal of mine to make sure that West Virginians, and indeed all Americans, can have access to technology. The primary reason I introduced the broadband tax credit is to help address some of the most intractable problems associated with our country's transition to the digital economy—unequal availability of broadband access technologies. This tax credit will encourage deployment of broadband facilities in areas where such technologies have not, and, without Congressional action, perhaps will not, be made available. With the help of the tax credit, people and businesses in these areas will be able to more fully benefit from the networked economy, and from activities such as telemedicine, telecommuting, and distance learning. This has positive consequences for everyone—not just those in rural areas—that go beyond the marketplace.

I also think it important to understand that this technology will also be an important driver of productivity and economic growth. According to the Federal Reserve, information technology accounted for over 60 percent of the productivity growth occurring from 1995 to 1999. Listen to the change that occurred at that time. During the first half of the 1990s, productivity increased on average only 1.5 percent per year. Then, when we began to link our computers over the Internet, productivity jumped to 2.8 percent in the second half of the decade. It is this increase which Fed economists attribute primarily to information technology, and I think it is very fair to expect that wide-spread broadband networks are going to make us that much more efficient because they move us beyond using the Internet for e-mail to much more substantive and sophisticated applications. And the economic value of that to us as a nation could be very significant. One economist, Robert Crandall of the Brookings Institute, estimates that accelerated deployment of broadband will generate up to $500 billion in economic growth annually.

But the other side of this is that if we do not deploy broadband quickly, and other nations do, then we will lose the productivity edge that is so important. And unfortunately, that appears to be happening. A recent study by the Organization for Economic Cooperation and Development (OECD) found that the United States is now fourth in the world in broadband deployment, behind Korea, Canada, and Sweden. And others may pass us soon. While only 10 percent of U.S. households have broadband access, some 20 percent of homes in Canada have it, as do an astonishing 50 percent of homes in South Korea. Japan and a number of European countries have adopted very aggressive plans for broadband deployment involving laying optical fiber to every home. We should be very aware that if other countries do that—deploy fiber to all homes and businesses within their borders—and we continue to move very slowly even in the deployment of slower, current-generation broadband, those other nations will gain a huge economic advantage over us.

I thus see the broadband tax credit as presenting us with a double opportunity. It would help provide much-needed economic growth. And it will also help ensure that rural and underserved Americans can fully participate in an increasingly digital world.

Mr. SMITH. I wonder if I might interrupt my friend from West Virginia to make an observation. I think his point about competitive advantage is a very good one, and it is important for the Congress to remember that it applies not only internationally but also domestically. And it is an issue that is important to both sides of the aisle. For example, the Senate Republican High Tech Task Force—HTTF—has made the Broadband Tax Credit legislation a priority and a part of its policy agenda. This agenda states ''The Task Force understands that high speed Internet access has the power to transform how we use the Internet. Encouraging tax and regulatory policies that foster rapid, efficient, and competitive deployment of broadband and other important technologies to urban and rural areas will be crucial to ensure our economic growth and technological competitiveness.'' The fact is, those communities that do not have broadband will invariably be at the disadvantage to those that do. And unfortunately, the communities that often have little or no broadband service are rural and low-income areas. I know this matter is as important to my colleagues from Massachusetts and West Virginia as it is to me. The Senator from West Virginia and I both come from states with large rural areas, so our constituents likely face a similar situation. In the rural areas of Oregon, we have seen concrete evidence of the difference broadband makes in a community's economic vitality. For example, in La Grande, Oregon, in the eastern part of the State, gaining connection to a nearby fiber optic route in 1999 made it possible for the town to persuade ODS Health Plans to establish a call center/claims center there. By contrast, other communities, such as Madras and Crook County, report that they have both lost potential businesses because of lack of broadband infrastructure.

The other thing I think we should mention is that in addition to economic benefits from this technology, there are other important societal benefits. For example, telemedicine. I'm happy to say that Oregon has been at the forefront of developing new and innovative telemedicine programs. In LaGrande, which, again, is fortunate to have a solid broadband infrastructure, it has been possible to develop a very good program for the provision of rural mental health services. The program is called RODEO NET and it's been making a difference in the lives of rural Oregonians for some time. And the telemedicine program of the Central Oregon Hospital Network makes it possible for doctors to consult with patients remotely and to receive the patients' radiologial images, sounds, records, and pharmacy information. But to do this well, you need broadband. In fact, the average data speed used by RODEO NET is 768 kilobits per second, more than twenty times the typical dial-up service in rural areas of the country. The problem is that few rural communities have a broadband connection. And that is something we must overcome. This technology can greatly improve the quality of life for rural residents, and we should not allow some of them to be deprived because they live in a more remote area.

Mr. ROCKEFELLER. My friend is correct. I agree with him wholeheartedly. That is exactly the kind of application that will make a big difference to my constituents and his, and I want to do everything I can to make it widely available across the United States.

Mr. KENNEDY. I wonder if my friend is a aware of the trans-Atlantic surgery that occurred last year, where a surgeon in New York operated on a patient in France?

Mr. ROCKEFELLER. Yes, indeed As I recall, the New York doctor remotely controlled some kind of robotic arms there at the patient's location, and it came off without a hitch, I believe.

Mr. KENNEDY. I think that is one of the most fascinating things I've ever seen, and as one who has worked for years on healthcare issues, it makes me even more committed to moving this broadband technology out across the country as quickly as possible, because one needs a very high bandwidth connection for those kinds of applications. You cannot do remote surgery over a narrow band connection.

Mr. ROCKEFELLER. Exactly right, and I think that this shows the potential that exists if broadband becomes ubiquitously deployed in this country. When we can transmit massive amounts of data instantaneously, the applications are limited only by our imaginations.

Mr. KERRY. I wonder if my friend from West Virginia would yield for a comment at this point?

Mr. ROCKEFELLER. I would be happy to.

Mr. KERRY. I thank the Senator, and my colleagues from Massachusetts and Oregon. As you know, I feel very strongly about this legislation. My staff and I spent a lot of time working with our former colleague Senator Moynihan, and with Senator ROCKEFELLER and others back in 2000 when we were putting this bill together. We put a lot of brainpower into this bill. We met with innumerable telecom companies and analysts and experts, working to craft a bill that provided real incentives, and doing so in a technology neutral manner. I do not care what the technology is, as long as it can provide broadband, it should receive the incentive. And I think this bill does that. It specifically anticipates copper wire, coaxial cable, terrestrial wireless and satellite technologies. If they can deliver true broadband services, at a measurable speed requirement, then they qualify for the credit. That is as it should be. It is the service we are after, not a specific kind of delivery system. So this bill sets the standards and lets all compete equally. All they have to do is meet the speeds, and they get the credit.

For the current generation technologies, it targets rural and low-income areas. Those are the areas where the Federal Communications Commission has told us there is a problem with current generation deployment. For the next generation technologies, it targets the entire country, with the exception of urban businesses. That is because, while next generation broadband exists and is being deployed aggressively in some Asian and European nations, it has scarcely been deployed at all in the United States.

I have a number of reasons for caring about broadband deployment. One is that I think we cannot allow the ''digital divide'' to continue, and there is a digital divide with broadband deployment just as there is with computer access and dial-up Internet access. In fact, the digital divide with broadband deployment is almost certainly greater than with computers or dial-up. So as a matter of basic equity, I think we must take quick action to deploy broadband across the nation.

I also care about this issue because it is crucial for our international competitiveness. As Senator ROCKEFELLER mentioned earlier, the United States is falling behind in broadband deployment. There is little disputing that fact. While some seem unconcerned about that matter, I am very concerned about it. I think there is little doubt that a nation with ubiquitous broadband will be more efficient and productive than a nation without it. And, the fact is, other nations are starting to outspend us on broadband infrastructure. Sweden has set aside some $800 million on broadband deployment in rural areas of the country—a much smaller area than the United States, obviously. And they have already spent an undisclosed amount to build a fiber-to-the-home system serving much of Stockholm, which is becoming a model for the rest of Europe. Now France is following suit. It recently announced that it will invest $1.5 billion on broadband infrastructure over the next five years, and much of it will probably be optical fiber, as in Sweden. In Japan, who knows how much the government is investing, but it is substantial. The investment is made through Nippon Telegraph and Telephone, which is supposedly an independent telephone company, but the majority ownership belongs to the Japanese government. In any case, NTT is in the middle of a huge fiber-to-the-home project all over the country, so the investment is clearly very large. And listen to this figure from South Korea. In Korea, the government is laying out some $15 billion to provide an optical fiber connection to 84 percent of homes by 2005. This legislation would invest only $540 million over 10 years. That is not a lot for a nation as large as the United States. But it is an important start, and we should pass it now and get the ball rolling.

Finally, I feel strongly about this legislation because I think it is crucial for small business. As Chairman of the Senate Small Business Committee I have an obligation to look out for that sector, and it is something I am passionate about. I am a former small businessperson myself, and I know how difficult it can be for a small company to compete with larger enterprises. Broadband can make that easier by increasing the productivity of the small business and opening up new markets. The telecom analyst Scott Cleland—many of you know him from his testimony here on the Hill on various occasions—wrote a short piece last year on the importance of broadband to small businesses. Paraphrasing Mr. Cleland, he said this. First, that small businesses have less access to broadband because they tend to locate outside the high-rent urban business centers. It's those urban business centers, he says where broadband is most plentiful. The second point he makes, and this is very important, is that we as a nation are losing as a result of this situation because small businesses tend to be a very innovative, economy-driving force. If broadband were more widely available to small businesses, Cleland says, the U.S. would benefit economically.

Those are a few of the reasons why I feel very strongly about this legislation, and I think it is imperative that we pass it this year and send it to the president for signature. I am delighted that we are having this discussion today, and I look forward to working with all of you to pass this bill at the earliest opportunity.

Mr. ROCKEFELLER. I notice that we are joined on the floor by the distinguished Chairman and Ranking Member of the Finance Committee, two gentlemen who have a lot to say about which tax legislation passes this body. I am pleased that both are cosponsors of S. 88 and strong supporters of technology measures. I wonder if I could ask them their thoughts on the likelihood of passing the broadband credit this year.

Mr. BAUCUS. I thank my friend from West Virginia, and I congratulate him on his leadership on this legislation. I agree that broadband technology is extremely important for this country. It will help ensure that our productivity remains high and that our citizens receive the best services modern telecommunications have to offer. I think some of these services that you have already discussed there today—telemedicine, distance learning, and videoconferencing, for example—will be absolutely life altering for many Americans. In rural areas, we will find even more ways to use broadband—televeterinary services, remote monitoring of crops, remote livestock auctions, etc. The fact is that when the underlying broadband infrastructure is there, you can do amazing things with relatively simple equipment—a digital video camera and a computer. And, taking a moment to indulge a point of home-state pride, I want to ask my colleagues if they know where this idea originated? I see my colleague from Montana, and he is smiling. He knows where it came from.

Mr. BURNS. Of course. From the Montana legislature, that's where. We're very creative in Montana.

Mr. BAUCUS. Exactly. The State of Montana enacted the first broadband credit in the nation in 1999. It was the brainchild of one of our public utility commissioners, Bob Rowe, and of state senator Mignon Waterman and others in the legislature. It was in effect for only two years, I believe, before being temporarily suspended, along with a number of other tax breaks, due to the State's budget shortfall. But in the short time it was in effect, it had very positive results. I want to quote from an article by Bob Rowe in one of our State newspapers, The Missoulian, in June 2001, in which Bob was describing the effect of the Montana broadband credit:

> The results are impressive. Dozens of projects were awarded tax credits, most of them in rural Montana—places like Circle, Crow Agency, Superior and Big Timber. Projects included DSL, cable modems, and wireless. They also included projects to provide 'redundant' access that is critical to many technology businesses in case service goes out.

Now as you might surmise, Circle, Montana is not a very big place. It had 644 people in the last census. None of those communities mentioned in that article has more than 1,600 people. If a broadband credit can help bring broadband to rural communities like those, then it is a worthy piece of legislation. But the problem is, even when the Montana broadband credit is reinstated, it will not be enough to ensure broadband deployment to all communities in a State like Montana, so we will need Federal incentives, too. And

that is where measures like the federal broadband credit we are discussing now come in. It is important that we adopt this kind of incentive on a national basis, so that all communities may benefit from it. And along with the incentives that various States may enact, and along with other measures like low-interest loans and grants and so forth, we can really accelerate broadband deployment to all communities in the country.

So I applaud the efforts of my friends who have worked so diligently on this bill. I stand with you and am committed to moving this bill this year. The support is clearly there, with 64 cosponsors in the Senate and 193 in the House. There aren't many bills with that much support. So I think the time has come. We need broadband, and we need it now, and I think this bill will help a great deal. We will work together to get it done this year.

I want to turn to the Senator from Iowa, my Ranking Member on the Finance Committee. I used to be his Ranking Member when he was Chairman, and now the roles are reversed. But regardless of which of us is sitting in the Chairman's seat, we always confer with one another and work closely together, and I know he cares as much about getting broadband technology out to rural areas as I do. Senator Grassley, do you have any thoughts on this issue?

Mr. GRASSLEY. I thank my Chairman, and I appreciate the opportunity to speak on this topic. I am pleased to be a cosponsor of Senator Rockefeller's bill, and I think it is important legislation. As you probably know, I have spent a fair number of hours on a farm in my life, and I can tell you that telecommunications are absolutely a crucial lifeline to rural areas, and we must ensure that rural areas of the country are not left behind as the state of the art evolves. I think that is what is happening now—the state of the art is evolving, and rural areas are being left behind. In urban areas, we have wonderful broadband systems where you can type at your computer and have a little TV screen going up in one corner. A lot of people here watch the Senate floor right from their computers as they work, which makes our work easier and more productive. In rural areas that kind of capability generally doesn't exist. And we just can't allow two different telecom standards for urban and rural areas. That would be like urban areas having telephones and rural areas not having telephones. What kind of country would we be if that were the case? So I think this legislation is very important.

I want to point out one provision in this bill which will be extremely important to rural areas, and that is one involving telephone cooperatives. Anybody from a rural State knows the importance that coops play in making sure no one goes unserved. There are some places that are so scarcely populated that the big publicly-owned companies can't justify the investment to their shareholders. So who gets the job done in those places? By and large, it's the telephone coops. And they do a great job, and we need to make sure we support them in their effort. But, of course, telephone coops are tax exempt organizations. So the question arises, if they don't pay taxes, how will they benefit from a tax credit? But this bill has found a way to let them take advantage of the benefit. How so? Through the so-called, ''85–15'' rule. The tax code requires that at least 85 percent of a telephone coops' income be used to pay losses and expenses. So this bill exempts from income the amount of broadband credit a coop would get if it were a taxable company. That encourages coops to make broadband investments because, if they do, then they will get help meeting the 85 percent rule. I think that makes a lot of sense and is good tax policy. It both encourages a crucial infrastructure investment, and simplifies the tax law for coops, which is an importannt thing to do anytime we can.

So with that, just let me say again that I support this legislation, and I will work with Chairman BAUCUS and Senator ROCKEFELLER and the other members here today to pass it.

Mr. BURNS. I wonder if I might very briefly add a couple of points at this juncture. I wanted to join my colleagues here on the floor today because I feel strongly about this measure. As Senator BAUCUS said earlier, this whole idea started in Montana, and we've seen the kind of effect it can have there, so I feel confident that a federal broadband credit can have a similar effect in other areas of the country. The other point I wanted to make goes back to Senator GRASSLEY's discussion of farming applications. I've spent a fair amount of time in agricultural pursuits myself, and if there is any doubt how agricultural organizations feel about broadband, you should take a look at the farm groups that have endorsed this bill. The American Farm Bureau, American Agri-Women, National Cattlemens' Beef Association, National Corn Growers Association, National Council of Farmer Cooperatives, National Pork Producers Council, National Sorghum Producers Association, National Wheat Growers Association, North American Export Grain Association, Rice Millers' Association, California Cotton Growers Association, California Cotton Ginners Association, Western Growers Association, U.S. Rice Producers' Group. The list goes on and on. Anyone who thinks farmers don't care about technology should spend some time on a modern farm, and what you will learn in that American agriculture is one of the most innovative industries in the world. Let me give you an example. Deere and Company, the farm equipment maker, is also a supporter of this legislation. And you may think at first, ''Why do they care? They just make tractors.'' But when you talk to them, you learn that the tractor of tomorrow—indeed of today—has a lot of high-tech equipment on board that, as it drives through the fields, gathers information on plant conditions and soil conditions and moisture content and so forth. And that is incredibly valuable information to a farming operation. But to really use that information, you need a broadband connection to send it from the tractor to, say, a plant specialist a hundred miles away. Without that broadband connection, it will take a very long time to transmit the data, which makes it a lot less useful. So we need to take action now to get broadband networks built out all over the country, including those little places like Circle and Superior and Big Timber and Crow Agency and thousands of communities like them around the United States. And this bill is going to help do that, so I a feel very strongly that we need to pass it at the earliest opportunity.

Mr. JOHNSON. I would like to add a brief comment on this topic, which is of critical importance to my State of South Dakota. My colleagues have all spoken eloquently about the role of broadband deployment to our Nation, and the special importance of ensuring that our rural areas have equal access. I think we all agree that the widespread availability of broadband infrastructure is absolutely crucial to the future of America. Throughout history, we have found ourselves at critical junctures, when the Federal Government has needed to step in and help build an intrastructure system that is national in scope. The transcontinental railroad. Rural electrification. The Interstate highway system. None of those would have occurred without help from the Federal Government. That, in my opinion, is one of the most important aspects of our job—to know when it is time for the Government to step in and facilitate the building of something big, something that will benefit the nation as a whole and make us a stronger nation. The transport of large amounts of information is no less important today than the transport of large amounts of goods was a few decades ago. The physical transport of goods is still necessary, and probably always will be. But the transport of information? Why should we have to transport people just to transport information? If a supplier can meet with his customer without driving across town or getting on an airplane, then that is better. If a rural American can meet with the urban medical specialist without driving or flying to the city, then that is better. If a rancher can show his cattle for sale to a distant buyer without the expense of transporting them to a sale barn, then that is better. All of those things are theoretically possible today, but they are possible in fact only to a few of our citizens. The disturbing thing is, that other nations are moving ahead of us in deploying broadband technology, as my colleagues have already pointed

out. I believe that if the United States is to continue to lead the world economically, it must invest in broadband infrastructure.

That's why I will continue to fight hard to pass this legislation. I have written the President about it, I have written the majority leader about it, I have spoken to my colleagues on the Finance Committee about it, and now I want to address all of my Senate colleagues about this bill. The fact is, we need this legislation to push broadband out to remote areas of the country. There are areas where the market will not take broadband for many years, if ever. But that is where this legislation is targeted—those very areas the market is leaving behind. We need this legislation to ensure, first of all, that rural areas are not left behind, and secondly that we do not fall behind as a nation. We must not continue to fall behind Korea, Canada, Sweden, Japan, Singapore and others, because if we do, then they will be able to work faster and more productively than we can work, and it is productivity which has been our hallmark, our saving grace, our competitive edge for years. The Internet was an American invention, as are the broadband technologies that accelerate its use. We must not let others surpass us in our own technology, simply through inaction. I urge my colleagues to take up and pass this very crucial legislation this year—at the earliest opportunity. It is very important that we do so, and I pledge my support for it here today.

Mr. ROCKEFELLER. I thank the Senator and welcome his support. I believe the Senator from New York wanted to join in the discussion, as well.

Mrs. CLINTON. I thank my friend from West Virginia. As an original cosponsor on Senator ROCKEFELLER'S broadband tax credit bill and a supporter of the amendment offered on the energy bill, and having introduced my own bills to enhance broadband deployment in Upstate New York and around the country, I join my colleagues from both sides of the aisle today to express strong support for legislation stimulating broadband infrastructure deployment and demand for broadband services.

As we all know, our Nation's economy has suffered a slowdown of staggering proportions in the last year. Investment has slowed, jobs have been lost, and for many companies revenues continue to decline. Few sectors of our economy have been as dramatically affected as the telecommunications and high-tech industry, with job loss estimates in the industry exceeding more than a quarter-million in the past year alone. Of particular concern to me, Upstate New York, like rural areas across America, has continued to face obstacles to full engagement in the new knowledge-based economy. Prior to the recent downturn, the economic growth of the last decade left behind many of our Nation's rural areas—like Upstate New York with its highly educated population—that remain disconnected from major markets. Studies have shown that New York lags behind many states when it comes to Internet connections and usage that are essential to commerce and communications in this new economy.

To be sure, communications technologies are important not only for economic reasons. My State of New York suffered more than any other from the devastating attacks of September 11th. On that day, emergency calls, communications between loved ones, and demand for reliable information demonstrated so clearly our dependence on—and the need for—telecommunications technologies. I am extremely proud of the efforts that were made by our rescue personnel, utilities, and others to restore the communications infrastructure that was so damaged by the terrorist activities. Those tragic events underscored the importance of redundant telecommunications systems to enable us to stay connected in times of national emergency.

The message here is that broadband deployment and its uses are key for the continuing economic development and growth of our Nation. I recently offered a sense-of-the-Senate, which was adopted on the FY 2003 Budget Resolution passed out of the Budget Committee, that highlights the needs for investments in broadband technology to spur development and job creation in rural and underserved areas. Mr. President, I ask that it be included in the RECORD at this point.

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

SENSE OF THE SENATE REGARDING BROADBAND CAPABILITIES IN UNDERSERVED AREAS

(a) FINDINGS.—The Senate finds in the following:

(1) In many parts of the United States, segments of large cities, smaller cities, and rural areas are experiencing population loss and low job growth that hurts the surrounding communities.

(2) The availability and use of broadband telecommunications services and infrastructure in rural and other parts of America is critical to economic development, job creation, and new services such as distance learning, telework capabilities and telemedicine.

(3) Existing broadband technology cannot be deployed or is underutilized in many rural and other areas, due in part to technical limitations or the cost of deployment relative to the available market.

(4) Today's small and medium-sized businesses need an extension program that provides access to cutting edge technology.

(5) There is a need to create partnerships to reduce the time it takes for new developments in university and other laboratories to reach the manufacturing floor and to help small and medium-sized businesses transform their innovations into jobs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should:

(1) facilitate the deployment of and demand for broadband telecommunications networks and capabilities (including wireless and satellite networks and capabilities) in rural and underserved areas,

(2) encourage the adoption of advanced technologies by small and medium-sized businesses to improve productivity, and to promote regional partnerships between educational institutions and businesses to develop such technologies in the surrounding areas, and

(3) invest in research to identify and address barriers to increased availability and use of broadband telecommunications services in rural and underserved areas.

Mrs. CLINTON. The broadband tax credit is a critical component of this economic development plan, in order to get broadband to ''the last mile''—to the households, schools, businesses, local governments and many others that stand most to gain from its deployment and, of course, the jobs and services that are sure to follow.

Ms. SNOWE. I am delighted to have this opportunity to join my colleagues in discussing the importance of the broadband tax credit legislation. We have worked on this bill since mid-2000, and we need to get it passed this year.

I am particularly pleased to have worked with Senator ROCKEFELLER on this issue. He and I go way back on technology matters. We worked side by side to ensure that all our classrooms and public libraries are connected to the Internet and modern technology through the E-rate, and this successful program is beginning its fifth year of funding.

Just as the E-rate continues to ensure that our Nation's schools and libraries are not divided between technological haves and have nots, we must ensure that all of our Nation's homes and businesses—in both rural and urban areas—have access to broadband services. Because although dial-up services are good for sending e-mail, sharing short documents, and browsing the web slowly, you need broadband services if you need to receive information quickly or send an item that is data-intensive, such as photographs, graphics, or lengthy documents.

While broadband is already being deployed in rural States, such as mine, I believe it is imperative that we seek to accelerate the rate of this deployment. Because where are the homes and small businesses without broadband service? That's easy—in rural and low-income areas. And that is what this bill is designed to cover: the rural and low-income areas where broadband generally is not already available. Furthermore, it is designed to help us move to the next generation of broadband that some countries are already rolling out.

The bottom line is that there are times when it makes sense to help the market deploy technology more quickly and this is one of those times. Why? Because the Government can play an important role in ensuring that all our citizens have access to basic infrastructure, just as it ensured universal access to telephone service in the 1930s.

I will not repeat what my other colleagues have said about the United States falling behind in broadband infrastructure, but it is a fact and it is something we cannot allow. We must engage on this issue and we must do it now. As the lead Republican cosponsor

of the legislation, I urge the passage of the broadband tax credit legislation as one way to address this matter, and believe it should be done this year. While there are a number of other ideas on the table concerning broadband deployment, this is one that is ready to go, and we should not wait any longer. Accordingly, I urge my colleagues to support moving this incentive as part of the next available tax package moving through the Congress.

Mr. SMITH. I would like to return to the issue of exactly how we move this year. I think it is the most substantial broadband initiative with a real chance of passing in the near future, and I think we should be very specific about how we are going to accomplish it. It is now mid-April, the number of legislative days remaining in this Congress are dwindling, and the available tax vehicles would seem to be limited for the rest of the year.

Mr. KENNEDY. I couldn't agree more. As I said earlier, I think this would be a very good addition to the energy bill because it has clear energy savings implications. If that proves not to be possible, I think it should be included in any other tax bill that comes through this year. Passing the broadband tax credit this year should be a priority for the Senate and we must ensure its passage at our earliest opportunity.

Mr. ROCKEFELLER. Absolutely. I am with you 100 percent. We have to get this done, and we have to get it done this year. I note that the majority leader has joined us on the floor and I wonder if we might impose on him to give us his views on the prospects for the broadband tax credit.

Mr. DASCHLE. I thank the Senator for his leadership on the broadband tax credit, and I thank all of our colleagues who have expressed their support for this measure today. As you know, I am a cosponsor of Senator ROCKEFELLER's bill, S. 88, and share the strong support for this bill expressed by our colleagues today.

We have made this a centerpiece of the Democratic high technology agenda. We believe broadband deployment is key to the continued economic growth of the entire Nation, and is particularly critical in rural areas that studies have shown too often lag behind their urban counterparts. This bill addresses that issue head-on by giving special incentives to rural deployment. This measure is one of a number of solutions that have been proposed that will prove effective in achieving universal availability of the most advanced telecommunications technology.

I look forward to working with the Senator from West Virginia, the distinguished Chairman and Ranking Member of the Finance Committee, and all of our colleagues who have spoken out so forcefully today. I hear you and share your support for this proposal. Given the large number of cosponsors, it is clear that the broadband credit can win approval in this Chamber. So I would say to my colleagues that I want to move the bill at the earliest opportunity.

Mr. ROCKEFELLER. We appreciate the Leader's interest and support. With that support, and that of all our colleagues who have joined us today, I feel confident that we will succeed in getting this bill enacted into law this year. And I am excited at that prospect, because I think it will make a big difference in moving broadband both to remote and underserved areas of the Nation, and also in moving it to the next generation. That will be an outstanding result, and a great benefit for the Nation.

ENERGY POLICY ACT OF 2002

Mr. NICKLES. I would like to engage in a brief discussion with my colleague from Alaska concerning an important provision that is missing from the electricity title of this bill. Would the ranking member of the Energy and Natural Resources Committee, Senator MURKOWSKI, agree that it is important to provide a level playing field for competitors in the interstate wholesale electricity market?

Mr. MURKOWSKI. Yes, I agree with my colleague.

Mr. NICKLES. Is today's interstate wholesale electricity market a level playing field, in which all competitors are subject to the same rules?

Mr. MURKOWSKI. No. Publicly-owned utilities are not subject to the same oversight of their rates and other activities related to sales of bulk electricity in interstate commerce as investor-owned companies.

Mr. NICKLES. I see nothing in the current language of the electricity title of this bill to rectify this disparate treatment. This seems unfair, and contrary to our policy of promoting competitive markets in interstate electricity sales. Would the Senator from Alaska agree?

Mr. MURKOWSKI. Yes, I think that all utilities who substantially participate in the interstate wholesale electric power market should be under the same regulatory regime, and subject to the same oversight by the same regulator. But I also want to make clear that municipally-owned and cooperatively-owned utilities that are too small or not selling in interstate commerce, such as those in Alaska, should not be subject to FERC regulation. I would oppose any attempt to extend such Federal regulation to these entities or their activities.

Mr. NICKLES. I thank the Senator for that viewpoint. Do not misinterpret what we are saying. This is not about ''spreading the pain'' around to everybody. Rather, what we are saying is that if a municipally-owned or cooperatively-owned utility makes a strategic business decision to go into the competitive interstate bulk power market to earn profits, then it ought to play by the same rules as everybody else. And once they enter that market, it is important that the market competition takes place on a level playing field, or else competition will be diminished and consumers will suffer. So I would like to go forward, in conference, and work with my friend, Senator MURKOWSKI, and others of like mind, to correct this situation and ensure equal treatment for all who chose to compete in the interstate wholesale electricity market.

Mr. MURKOWSKI. I look forward to working with the Senator from Oklahoma on this issue as this bill moves to conference.

ENERGY EFFICIENT COMMERCIAL BUILDINGS

Mr. GRAHAM. Mr. President, Section 2105 of this legislation, the section providing a tax deduction for construction of energy efficient commercial buildings, does not list the specific building components that will qualify the building. This is different from Section 2103, pertaining to energy efficient residential property, in which items contributing to building efficiency are listed in some detail. My concern is that certain energy efficiency improvements, if not specifically included, may not qualify for the deduction under Section 2105. I was wondering if the Senator from Montana could clarify for me the reasons behind the differences between these two sections.

Mr. BAUCUS. The Senator from Florida asks a reasonable question, but he need not be concerned about the differences between these two sections. The commercial building deduction is constructed as a performance-based incentive for energy efficiency. The bill does not specify which materials should be used because different buildings may require different components to meet efficiency standards. Construction need not adhere to a specific list of energy efficient components.

Mr. GRAHAM. Let me ask then about a specific building component so that I can be certain I understand what the Senator has explained. Building insulation is not referenced in Section 2105, however it is referenced in Section 2103. Nevertheless, expenditures for insulation in a commercial building will qualify for the deduction so long as it meets the energy efficiency requirements laid out in this measure. Is that accurate?

Mr. BAUCUS. The Senator is correct. In fact, the efficiency requirements laid out in this legislation essentially require that building construction include a combination of highly energy efficient property. Energy efficient insulation would almost certainly be included among these components.

Mr. GRAHAM. The origin of my concerns regarding the enumeration of specific components stems from the language used to define energy efficient commercial building property expenditures at the beginning of Section 2105. It indicates that in order to qualify, energy efficient property must be eligible for treatment as depreciable property under section 167 of the tax code. There are many building components, like insulation, not specifically

referenced in section 167. Can the Senator from Montana confirm that the intention of this measure is not to exclude these components from eligibility for the energy efficient commercial buildings deduction?

Mr. BAUCUS. I can confirm for the Senator from Florida that the intention of this provision is to include all those components that would produce levels of energy efficiency sufficient to meet the standard laid out by this amendment.

Mr. GRAHAM. I thank the Senator for his clarification and his time.

IMPACT OF REFORMULATED FUELS PROVISIONS AND NEED FOR APPROPRIATE DISCRETION FOR ADJUSTMENTS TO REQUIRED BASELINES FOR ANTI-BACKSLIDING REQUIREMENTS

Mr. CORZINE. Mr. President, I rise today to bring to the attention of my colleagues an important issue that relates to provisions in the Energy bill dealing with reformulated gasoline. After a few brief introductory remarks, I would like to engage in a colloquy with my colleague and friend, the Chairman of the Committee on Environment and Public Works, in order to inform and clarify the legislative record on the matters I am about to discuss.

The provisions contained in Subtitle C of Title VIII of the Energy bill deal with motor fuels. As has been discussed on this floor on preceding days, these provisions deal with a number of issues, including a ban on the use of MTBE and requirements for use of ethanol in reformulated gasoline. I would like to speak today on another issue in this subtitle that has received less attention during our debate on these issues, but which could have a profound and detrimental effect on the supply of gasoline in New Jersey and elsewhere in the Northeast, by affecting an important supplier to this market.

Section 834 of Subtitle C eliminates the oxygen content requirements for reformulated gasoline. It is necessary to do this since the subtitle, in Section 833, Subsection (c), otherwise bans the use of MTBE, the oxygenate most commonly used to meet the oxygen content requirements of the Clean Air Act. And while we have all become aware of the groundwater contamination problems caused by leaks of gasoline containing MTBE, it is important to understand for the situation I am about to discuss that MTBE does provide significant benefits in regard to emissions of toxic air pollutants under current EPA models. Indeed, overall toxic air emissions reductions achieved through the use of reformulated gasoline substantially exceeded the minimum requirements set by the Clean Air Act Amendments of 1990. I think we all agree with the Blue Ribbon Panel's recommendation, that with or without MTBE, it remains an important goal to maintain the real world emissions benefits derived from the use of reformulated gasoline.

So when the authors of Subtitle C eliminated the oxygen requirement for reformulated fuel and banned the use of MTBE, they also wanted to be sure that the toxic air pollutant reductions achieved from the use of reformulated gasoline were maintained. Thus, they included the so-called 'anti-backsliding' provisions found in subsection (b) of Section 834. Among other things, subsection (b) will require the EPA Administrator to . . . establish, for each refinery or importer . . . standards for toxic air pollutants from use of the reformulated gasoline produced and distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

This provision thus requires EPA to establish, for each refinery, the amount of toxic air emissions from the gasoline based on 1999 and 2000 data, and then establish that as a ''baseline,'' or maximum level of toxic air emissions from the gasoline produced by that refinery.

What this provision doesn't do, is tell the refiner how to maintain the baseline once MTBE is eliminated, it just has to do it. In most cases, refineries can meet the gap in toxic air emissions performance—caused by the ban on MTBE—simply by doing little more than complying with an already-existing separate regulation that requires them to reduce the levels of sulfur in the gasoline. Removing sulfur improves the toxic air emissions performance of the gasoline as calculated by EPA. Or the refinery could invest in improved extraction technology to remove directly some of the toxics—for example, benzene. Or a larger, multi facility refiner could trade between its refineries the credits for emissions of toxic air pollutants authorized by the Subsection.

So, once the EPA Administrator establishes the baseline for a refinery, most refiners have options that are available to ensure that their refineries do not 'backslide' on the emissions of toxic air pollutants from gasoline. For example, refiners that had high sulfur levels during the base period will have a relatively easy time complying with this requirement for their reformulated gasoline, primarily because they must desulfurize gasoline by 2004–2005 under already existing rules, and this step will substantially reduce toxic air emissions, thus offsetting the increases in calculated emissions from eliminating MTBE.

But what happens under the Energy bill to the refiner who had voluntarily taken steps, not required by any regulation, to incorporate state-of-the-art benzene extraction technology and also removed a very large amount of the sulfur from its gasoline before the base period that the EPA will use to establish its baseline? That refiner will be given a baseline that is far tougher than virtually any other refiner. It is so tough, Mr. President, that when MTBE is banned, as required by the bill, it likely will not be able to make up the lost benefit MTBE provides—substantially lowering modeled emissions of air toxic pollutants—by lowering sulfur to required levels or taking any other actions that will allow it to maintain that baseline performance level.

This is exactly the situation facing the Amerada Hess Corporation, a corporate constituent in New Jersey that is an important supplier of reformulated gasoline. At its Port Reading, New Jersey refining facility, Hess produces 35–50 thousand barrels per day of reformulated gasoline that is supplied to New Jersey, New York, and Connecticut. Hess also supplies another 40–60 thousand barrels per day of reformulated gasoline into the northeast market from HOVENSA, a refinery it partly owns on St. Croix in the US Virgin Islands. Both facilities, the only two under the Hess umbrella, have long produced very clean gasoline—taken together, the gasoline produced by these refineries has almost 60 percent less sulfur and 35 percent less benzene than the refinery industry average.

Once the EPA establishes baselines for these two refineries, and MTBE comes out of the gasoline, they will have no realistic options to maintain the baseline—exactly because the gasoline was already so clean. They can put in ethanol, but that does not have the same level of positive effect on toxic air emissions, compared to MTBE. They will lower sulfur further to 30 ppm, but in contrast to most other refineries, this will not be enough to maintain the baseline, since the gasoline was already low in sulfur before and during the relevant base period. Benzene is already at very low levels, and further reductions are not reasonably achievable.

I will include in the record tables of data provided to me by Amerada Hess that illustrates this result. They could buy credits, if they were available, but this would allow refiners who did not take early action to clean up gasoline to obtain a competitive advantage.

The only reasonable way to address this situation, Mr. President—and avoid penalizing a refiner by virtue of the fact that it took early action to clean its gasoline before it was required to do so—is to ensure that the EPA Administrator has the ability and discretion to review situations like this, and when necessary and appropriate, make adjustments to the refinery-specific baselines.

This notion of providing limited, necessary baseline adjustments is not unprecedented. Indeed, EPA provided this form of relief just last year on nearly identical facts. In that case, it was implementing the Mobile Source Air Toxics, or MSAT, rule. That rule sets maximum levels of toxic air emissions from gasoline from baselines established using data from the base years, 1998, 1999, and 2000. It is thus nearly identical to the anti-backsliding provisions of Subtitle C—it only differed in

that it covered all fuel, conventional and reformulated, and looked to data from one more base year, 1998.

In that case, Mr. President, Hess faced the same situation in which it finds itself in this instance for its gasoline supplies form Port Reading and HOVENSA, except that the reason MTBE was going to be unavailable on a going forward basis was state-enacted bans on its use in New York and Connecticut. In this case, it is federal law that will ban the use of MTBE. So the result in the MSAT rule situation should be the same when the provisions of this bill go into effect. In the case of the MSAT rule, EPA agreed that once the state MTBE bans went into effect, EPA would make an appropriate adjustment to the baselines for the Port Reading and St. Croix refineries to reflect their unique situation.

The adjustment was based on EPA's finding that the reformulated gasoline which these refineries produce significantly outperforms the industry average for toxic air emissions, and that MTBE bans would affect the modeled toxics performance. The purpose of this relief, quite simply, was to level the playing field, so that a refiner that took steps to clean up its gasoline early could continue to supply gasoline when MTBE is eliminated. I will enter into the RECORD a copy of the letters from EPA laying out the details of EPA's resolution of this problem.

My purpose today is therefore twofold. I first wanted to bring this matter to the attention of the Senate. It would be a travesty if we were to enact legislation that penalized parties for taking early action to improve the environmental performance of their product. And I should hasten to add here, Mr. President, that based on every conversation I or my staff have had on this matter, we have been assured that this was an unintended consequence. So my second purpose, Mr. President, is to ensure that the record on this legislation provides sufficient guidance to EPA in order that it can address this matter effectively.

For these reasons, I would like to engage the Chairman of the Environment and Public Works Committee, the Senator from Vermont, in a colloquy on this issue.

As discussed in my remarks, EPA had the requisite authority and discretion under the MSAT rule to make limited, appropriate adjustments to refinery-specific baselines for toxic air emissions based on unique circumstances such as those facing Amerada Hess. Would you agree that EPA would enjoy a similar level of discretion under the anti-backsliding provisions of Subtitle C of Title VIII if and when the Energy bill, or any other bill that carries similar provisions, becomes law?

Mr. JEFFORDS. I appreciate the Senator from New Jersey bringing this matter forward at this time. As he noted, the last thing we want to do in this statute is to penalize—advertently or inadvertently—those parties that take early action voluntarily to improve the environmental performance and public health benefits of the products they produce, in this case, reformulated gasoline.

Based on the facts that the Senator has presented and as they have been presented to me and my staff, it appears that Amerada Hess and HOVENSA could be disadvantaged if the anti-backsliding provisions of the bill were implemented without consideration of the factors that you have outlined. And, this situation could lead to a less competitive market in the Northeast, potentially driving up prices.

It seems reasonable that refineries such as you have described, which have worked out an understanding of an appropriate adjustment with EPA in the context of the implementation of rule on mobile sources of air toxics, should be able to proceed in a similar fashion when the provisions relative to reformulated fuels—particularly, the anti-backsliding provisions in Section 834—are implemented. EPA has informed my staff that they would interpret the provisions in question as providing them with adequate authority to do so. It would seem logical that such authority would be used as it was in the case of the rule, regardless of whether the situation is a state ban or a Federal ban on MTBE.

Mr. CORZINE. I very much appreciate the Chairman's answer, and believe that EPA should be able to retain and incorporate existing baseline adjustments granted under the MSAT rule into the baselines that will be established under Section 834(b).

I wonder whether the Chairman could answer another question in this regard. If the MTBE ban proposed in S. 517 takes effect before or supersedes the implementation of existing state MTBE bans, is S. 517 intended to negate baseline adjustments that refer to or are based upon those state laws?

Mr. JEFFORDS. As the Senator knows, there is no Federal preemption of State law contained in the Subtitle C. In fact, Section 833 of the bill, in Subsection (d), states specifically that enactment of the federal MTBE ban contained in the preceding subsection will ''have no effect on the law in effect on the day before the date of enactment if this Act regarding the authority of States to limit the use of [MTBE] in motor vehicle fuel.'' And Section 834, in which the anti-backsliding provisions are contained, includes a savings clause (Subsection (d)) that states ''[n]othing in this section is intended to affect or prejudice any legal claims or actions with respect to regulations promulgated by the Administrator prior to enactment of this Act regarding emissions of toxic air pollutants from motor vehicles.''

Taken together, these provisions are a clear indication that it is the intent of the Senate not to preempt the state laws that were the cause for the baseline adjustment granted under the MSAT rule or to affect any legal claims or actions related to the MSAT regulations, including the sections in that rule providing for baseline adjustments. Furthermore, as I observed in my prior response, fairness would dictate that the result should be the same whether MTBE is banned as a result of this bill or as a result of state law.

Mr. CORZINE. I again thank the distinguished chairman of the Environment and Public Works Committee for his comments and perspective on this issue, as this is a very important issue for my State and region.

Mr. President, New Jersey is the largest user of reformulated gasoline in the Northeast. Hess—through the Port Reading and Virgin Islands refineries—supplies about 13 percent of the reformulated gasoline used in the New York/New Jersey/Connecticut region. Production from Hess's Port Reading refining facility alone translates to 14–20 percent of New Jersey's total gasoline consumption. My office is advised that if S. 517 does not allow EPA to retain existing MSAT baseline adjustments or grant new ones, it will constrict the ability of its Virgin Islands joint venture facility to manufacture reformulated gasoline and may cause Port Reading to close. The reformulated gasoline supplied by these two refineries, as I noted previously, today has almost 60 percent less sulfur and 35 percent less benzene than the refinery industry average and would be replaced by other suppliers, who would supply less clean gasoline on average. Moreover, New Jersey could lose a major employer in the form of Port Reading which, in addition to producing clean gasoline, has been identified as among the top environmental performers for refineries in the country in Environmental Defense's most recent rankings.

As a matter of sound environmental policy, refiners who voluntarily cleaned up gasoline by removing dirtier components before the baseline period should certainly not be put in a worse position than refiners who waited until regulations forced them to reduce toxic air emissions. Nor should such refiners reap a windfall under S. 517 by having clean refiners end up buying credits from them to stay in business.

I greatly appreciate the interest my Chairman on the Environment and Public Works Committee has shown on this issue, and hope we can work together, along with other interested Senators, to remedy this situation on this and any future legislation that may carry similar provisions.

PRIVATE USE CLARIFICATION

Mr. KYL. I would like to engage in a colloquy with the chairman of the Senate Finance Committee in order to discuss an issue that I know the chairman, the ranking member of the committee and their staffs have been attempting to address for some time. Specifically, we all know that the electric industry is undergoing significant

change However, certain tax provisions, drafted long ago, appear to obstruct the current restructuring of the industry. The Senate Finance Committee has attempted to better understand these tax and non-tax conflicts in the rapidly changing national energy environment by directing the Department of the Treasury to conduct an ongoing study of the issue and report back to the tax-writing committees on an annual basis with legislative recommendations. In addition, the manager's amendment to the tax title to the energy bill before us on the floor has provisions that will facilitate restructuring for cooperatives and investor-owned utilities.

Public power utilities need to know how they can operate in this new environment. This guidance is especially critical given the lack of a legislative solution to modernize Federal ''private use'' tax laws passed in the mid-1980s. I rise today to suggest two mechanisms that will provide very limited, but necessary, guidance for public power utilities. I believe both of these mechanisms can be addressed either through administrative guidance or legislation.

First, the report of the Senate Finance Committee urges the Department of the Treasury to finalize as quickly as possible regulations relating to the definition of private activity bond for public power entities. In adopting these regulations, the committee hopes that the Treasury will use its regulatory authority to provide flexibility to foster the participation of public power in a restructured electric industry. I believe that finalization of the regulations is important.

I further believe that flexibility may be provided in the regulations by, among other measures, lengthening the term of the short-term output contract exception to 5 years; providing specific, more flexible guidelines for utilities to replace load lost from participating in the open access of their transmission facilities; and allowing the advance refunding of bonds used to finance transmission facilities used in open access or regional transmission organizations. I would hope that the legislative history to the tax title to the energy bill would urge the Treasury Department to consider adopting these items to the greatest extent possible when the private activity regulations are finalized.

Second, public power utilities historically finance aggregate generation, transmission and distribution needs with tax-exempt debt and electric system revenues, equity. Moreover, these construction needs are often financed on a system, versus a project, basis. This means that each dollar of borrowing is not tied to a dollar investment in specific projects. This is a common utility practice, but one that complicates the ability to manage private use limitations in the current environment.

Current law does not provide specific guidance in this area, though the Internal Revenue Service has issued individual private letter rulings to entities other than utilities that have sought clarification on the ability to allocate private business use to equity. Unfortunately, the private letter ruling process can be lengthy, administratively cumbersome and not viable were a large number of utilities to pursue this remedy. A modest solution to this issue would be to provide that the portion of a public power utility's system that is financed with amounts other than tax exempt-debt can be used without regard to private use limitations. Public power systems then have a strong incentive to finance projects with equity or taxable debt rather than tax-exempt bonds.

Specifically, language to provide broad guidance in this area could state:

> If, after first allocating private business use contractual sales to the portion of electric output facilities financed with equity or taxable debt, the remaining amount of such contracts, if any, when allocated to the tax exempt bond-financed portion of the facilities would not cause the private business use test to be exceeded, then the private business use limitations are deemed not to have been exceeded.

I have been informed by the Treasury Department that they believe that they have the authority to address this issue and are working on published guidance in this area. Unfortunately, the Treasury and the Internal Revenue Service have been working on comprehensive allocation regulations for some time and guidance is needed now. Therefore, I would again hope that whatever legislative history that emerges with respect to the tax title to the energy recognize the ability of a public power system to allocate its equity to investments in as flexible a manner as possible.

I hasten to add that these two suggestions do not provide a comprehensive fix to the numerous technical private use problems that require the attention of this body. However, it will provide necessary guidance to public power utilities at a time when managing private use has become increasingly challenging due to industry events. Moreover, they will not upset the competitive balance in the industry.

I ask the distinguished Chairman of the Committee on Finance if I can count on him to support language with respect to these two items in any report that this body or the conference may issue.

Mr. BAUCUS. The Senator from Arizona can count on my support in ensuring that guidance with respect to the finalization of regulations relating to the definition of private activity bonds for public power entities is provided at the earliest opportunity and most certainly in conference. Regarding the ability to allocate private business use to equity, I look forward to working with my colleague to fashion an appropriate remedy for this important issue.

NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE

Mr. MCCAIN. Mr. President, section 1601 of title XVI of this bill would establish a National Science and Technology Assessment Service to develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. Everyone in this body appreciates that the science and technology policy issues that we face today are diverse and complex. Clearly there is a need for some reliable means for Congress to receive timely, unbiased information on such matters.

However, I am concerned that the details of the organizational structure being proposed in this section have not been fully vetted. No hearings were held on the proposal. Many of those interested are not locked into this particular design proposal, but feel that there is a valid need for such an organization. I hope that we can revise the title XVI provisions to ensure that it meets the needs of Members. Many of us recall the former Congressional Office of Technology Assessment which was abolished in 1995 over concerns about its ability to provide timely information to Members of Congress. Oftentimes their reports were released after a vote on a particular issue, rendering them useless from a Congressional standpoint. There were also concerns that the office had grown to be much larger than originally anticipated. By the time the office was abolished, it had grown to have an annual budget of approximately $22 million and had over 200 employees. The cost of an average report was around $400,000.

I believe that the authors of this title XVI intend that the assessment service be an unbiased, nonpartisan entity whose reports and recommendations would be widely accepted by the Congress. To create such an entity with instant credibility, requires an open process for considering different approaches to structuring it. Without this opportunity and process, the established service may not be received as a reliable non-partisan entity. Without such a reception, the service would be essentially useless.

Although I have filed an amendment that would delete this title from the bill, I am hereby withdrawing that amendment. I hope to work with the chairman of the Commerce Committee, Senator HOLLINGS, to further review the provision while the Energy bill is in conference with the House. I urge Senator HOLLINGS to hold hearings on this proposal to allow for an open debate on the needs and benefits of the congressional service. I further urge the chairman to engage other committees and Members in these discussions.

Mr. HOLLINGS. Mr. President, I thank Senator MCCAIN for his comments and his willingness to work with me on this issue. The need for reliable, sound advice to Congress on scientific and technology issues has never been greater. Many of the issues that we tackle every day involve some scientific or technological element.

Congress needs to be sure that it can avail itself of excellent scientific analyses on complex issues. The advice that we were able to receive in the past from the Office of Technology Assessment on such issues as climate change and homeland security is sorely missed. As Senator MCCAIN noted, any assessment service for the Congress needs to be non-partisan and effective. I look forward to discussions with the ranking member of the Commerce Committee, as well as other members of the Senate, regarding the proposed structure of the National Science and Technology Assessment Service and possible changes to that structure.

REQUEST FOR TAX MODIFICATION

Mr. HARKIN. Mr. President, I have long been interested in providing a modification in the tax law allowing a historic hotel in my State to be restored and used as housing for lower income elderly people. Unfortunately, as the chairman knows, the tax laws often determine the viability of the project and this modest sized project is more complex then most of its size.

Mr. BAUCUS. Mr. President, I appreciate the Senator from Iowa's concern and his persistence. However, because the provision is not an energy tax proposal, it is not appropriate for it to be included in this energy bill. But I do want the Senator to know that there is sympathy for the proposal, and I do plan to consider its inclusion on an appropriate measure in the near future.

DEVELOPMENT OF HIGH TEMPERATURE SUPERCONDUCTOR TECHNOLOGIES

Mr. SCHUMER. I would like to pose a question to my esteemed colleague from New Mexico, who serves as the chairman of the Energy and Natural Resources Committee. It is my understanding that the Energy Policy Act of 2002 contains language that will direct the Secretary of Energy to conduct research and development activities regarding enhanced renewable energy. Within that language's provisions for electric energy systems and storage, there exists language that directs the Secretary of Energy to undertake demonstration projects to further the development of high temperature superconducting, HTSC, technology. I am seeking the chairman's assistance in clarifying the specific factors and goals that are meant to be associated with these demonstration projects.

It is my understanding that the HTSC technology demonstration projects, which may include HTSC cables, fault current limiters, and power transformers, are meant to focus on the development of second generation YBCO-based superconductors that will make several significant contributions to the electrical system. Furthermore, the high temperature superconductor technology demonstration projects should also have a minimal adverse impact on the environment and land use, and produce environmental benefits by reducing reliance on oil as a cooling agent in electric power devices and reducing harmful emissions caused by fossil-fuel-powered generating plants.

I would like to know if the Senator from New Mexico agrees with my interpretation of the language in the Energy Policy Act of 2002.

Mr. BINGAMAN. I respond to my colleague from New York by stating that I do in fact share his understanding of the intent of the language relating to HTSC research in the Energy Policy Act of 2002.

OIL AND GAS DEVELOPMENT ON PUBLIC LANDS

Mr. DURBIN. Mr. President, I ask the chairman of the Energy and Natural Resources Committee to engage in a colloquy with Senator FEINGOLD and me with respect to oil and gas development on Federal lands, an issue that is very sensitive for Americans right now. There are areas on public lands where we can develop oil and gas resources in a responsible way. But we should not take this fact as a green light to degrade environmentally sensitive lands, which should be preserved for generations to come. We need to recognize that the Secretary of the Interior, as the steward of our public lands, must consider a range of factors when developing and use plans for public lands. The Secretary of the Interior is not just in the business of energy—lands administered by the Bureau of Land Management are multiple use lands and the Secretary is required to take many factors into consideration when developing land use plans, including the recreation, range, timber, minerals, watershed, wildlife and fish, and natural, scenic, and historic values.

The Bureau of Land Management has authority to lease public lands for oil and gas development under the authority of the Mineral Leasing Act, and this authority is referenced in section 602 of the energy bill. However, before the BLM exercises its authority, I believe that it is important that the secretary consider the characteristics of the land, including whether the land exhibits wilderness characteristics. For example, section 102 of the National Environmental Policy Act requires the Secretary to consider ''any adverse environmental effects'' and ''any irreversible and irretrievable commitments of resources'' that would result from proposed agency actions. In addition, section 202 of the Federal Land Policy and Management Act requires the Secretary to develop and maintain land use plans for public lands administered by the BLM, using and observing the principles of multiple use and sustained yield, and among other criteria, ''giv[ing] priority to the designation and protection of areas of critical environmental concern.'' Does the Senator from New Mexico agree that section 602 of the Energy Policy Act does not change the Secretary's obligation to comply with all laws and regulations applicable to the BLM's onshore oil and gas program, including applicable requirements under NEPA, FLPMA, and other laws designed to protect environmental values and sensitive areas on public lands?

Mr. BINGAMAN. The Senator from Illinois is correct. Section 602 simply states that in order to ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior is required to ensure expeditious compliance with the requirements of section 102(2)(C) of NEPA, improve consultation and coordination with the States, improve the collection of information related to such leasing activities, and improve inspection and enforcement activities related to oil and gas leases. The section also authorizes appropriations to the secretary. Section 602 does not change any requirements under current law applicable to the management of public lands, including any requirements imposed by NEPA, FLPMA or any other applicable law.

Mr. DURBIN. I thank the chairman. It is my understanding that the current BLM policy requires the agency to consider activities on lands proposed for special designations, such as Areas of Critical Environmental Concern and Wilderness Study Areas, and, subject to valid existing rights, to avoid approval of proposed actions that could degrade the values of potential special designations. Does the Chairman agree that section 602 does not affect this policy?

Mr. BINGAMAN. The Senator from Illinois is correct.

Mr. FEINGOLD. The Senator may be aware that citizens' groups have petitioned the BLM to review several million additional acres for wilderness designation, but these lands are largely not protected from oil and gas development. The BLM's ''Wilderness Inventory and Study Procedures'' manual requires the BLM review wilderness recommendations received from the public, and to make a determination as to whether there is a reasonable probability that the area in question may have wilderness characteristics. If the BLM determines that the area may have wilderness characteristics, and if actions are proposed that could degrade the wilderness values, the BLM ''should, as soon as practicable, initiate a new land use plan or plan amendment to address the wilderness values.'' Does the chairman agree that section 602 does not alter this policy, that the BLM must review wilderness proposals it receives from the public?

Mr. BINGAMAN. The Senator is correct, Section 602 does not change any existing requirements or policies, including the potential wilderness review policy.

Mr. FEINGOLD. I thank the chairman.

PROTECTING LEASES ON THE OUTER CONTINENTAL SHELF

Mrs. BOXER. Mr. President, I rise to discuss an amendment that I have been working on with several of my colleagues for some time now. The amendment is based on S. 1952, a bill that would reacquire and permanently protect certain leases on the Outer Continental Shelf off the coast of California by issuing credits that can be used to

develop energy resources elsewhere in the country.

As you know, for decades, Californians have opposed oil and gas drilling along their coasts. We vividly remember the horrific oil platform rupture and oil spill that occurred off the coast of Santa Barbara in 1969. The ecological implications of that spill and the many other spills and leaks associated with the rigs that are currently along our coast are still being felt by Californians living along the coast.

Unfortunately, 36 more leases off our coast remain eligible for oil and gas development and four additional leases remain in legal limbo.

That is the last thing Californians want or need.

In fact, the State of California has taken the Department of the Interior to court over whether the State has the ability to deny these leases. I strongly support the State in this effort and have joined Representative CAPPS of California in filing an amicus brief in support of the State's position.

I believe every State should have the right to deny oil and gas development off their shores, as offshore activities inevitably impact the people and resources that are onshore. Last year, I reintroduced legislation, the Coastal States Protection Act, to place a moratorium on new drilling leases in Federal waters that are adjacent to State waters that have a drilling moratorium. That bill, however, addresses only future leases.

With regard to the undeveloped existing leases off of California's coast, I believe a proactive approach is needed. These leases are in the midst of protracted and contentious litigation. I do not believe, however, that any interests are best served by waiting for the courts to sort this out. I have been approached by California lessees that want out of California. I want them out; the State wants them out; and the people of California want them out. Instead of hoping the courts reach the same solution, I think it vital that we seek legislative action to eliminate any threat of future drilling off California's shores and remedy this situation as soon as possible.

That is why I have continued to work on this language with my colleagues to find a compromise that would protect the fragile environment off the California coast and at the same time redirect the financial resources for energy production to other areas where it can be used to meet our country's energy needs.

In short, we are working to rid California of unwanted drilling, end a protracted legal battle in which nobody wins, and free the financial resources of the lease owners so that they may produce energy elsewhere. Our goal is a win-win situation.

However, this is a new idea that has significant implications and we have not yet been able to work fully through all of the details. For that reason, I will not offer this amendment to the Energy Bill and will instead try to build consensus around this concept. I am committed to continuing to work on this issue with my colleagues because I know they too are committed to the same goal.

Mr. CAMPBELL. Mr. President, I rise to associate myself with the goal of the Senator from California. One of the California lessees has their headquarters in Colorado. I know that this company has wasted a great deal of time, money and effort in the unproductive leases off the coast of California. It is time for this company to be allowed to recoup its costs so that they can be redirected to more promising development opportunities elsewhere.

We need to enhance our domestic energy production in the interest of national security, and so we have to find a way to reconcile the competing interests of the California environmentalists, the Department of the Interior and the oil companies. We can all agree that our nation needs to produce more energy and that we must do so in environmental sensitive ways. However, the owners of the leases have had their hands tied in California for 20 or more years to no one's satisfaction. It is time to move on, so that both important national goals can be met.

I applaud the efforts of Senator BOXER to continue to seek a compromise that balances the environmental concerns with the need to fairly compensate the companies for their leases so they can redirect their efforts toward the production of more energy for our nation.

Mr. BINGAMAN. Mr. President there is no aggressive advocates on this issue than Senator BOXER. I am willing to continue working with her to see if there is a solution that addresses the environmental concerns of her state, the concerns of the oil and gas industry, and the need to develop additional energy resources. I also want to thank the Senator for her willingness to put their issue aside for now so that consensus can be reached. I am hopeful that through continued efforts we will be able to achieved that consensus.

COMPREHENSIVE STUDIES OF SHALLOW UNDERGROUND STRUCTURES HOLDING NATURAL GAS

Mr. BINGAMAN. I would like to pose a question to my esteemed colleague from Kansas. It is my understanding that there was a terrible accident involving the death of several people in Kansas from the leakage of natural gas from a shallow underground storage structure. As a result, you are offering a noncontroversial amendment to authorize the Department of Energy to conduct a detailed study on the engineering and geology aspects of these shallow underground structures so that their safety can be assessed on a rigorous basis. I appreciate my colleague's desire to work with me on addressing this issue in conference. I agree with him that it can be dealt with in the conference appropriately without taking up valuable Senate floor time.

I would just like to clarify that as this Energy Policy Act of 2002 moves into conference, if the good Senator from Kansas that it might be appropriate to move some of the detailed language under your amendment's section (c) to the subsequent conference report so that it gives the proper guidance and intent to the deparment?

Mr. ROBERTS. I thank my good colleague from New Mexico for understanding the reason why this amendment is important to not only my state but the safety of future underground shallow gas structures in the entire U.S. I look forward to working with him and the Senate conferees on the energy bill to ensure the proper report language is in the conference report based on the legislative language in my amendment.

AMENDMENT NO. 3185

Mr. KYL. Mr. President, on April 22, I submitted amendment No. 3185 which addresses service obligations of load-serving entities. This amendment gives specific direction to FERC in exercising that authority. It amends title II of S. 517 to require FERC to ensure that utilities with service obligations are able to retain existing firm transmission rights in order to meet those obligations.

This amendment allows FERC to go forward with its program to establish a standard market design for wholesale electric markets while at the same time ensuring that transmission owners and holders of firm transmission rights under long-term contracts are able to retain sufficient transmission rights to meet their service obligations under Federal, State, or local law, and thereby to protect retail customers.

This amendment has been reviewed by the Administration, FERC and a number of key participants in the electric restructuring debate. I believe we have some agreement on the concept, but need more time to work out the language. Accordingly, I am not offering the amendment now but would like to work with the managers of the bill to come up with an acceptable version.

Mr. MURKOWSKI. I thank the Senator from Arizona for bringing this very imporatnt concept to our attention. We very much want to work with him to develop an acceptable service obligation amendment.

Mr. BINGAMAN. I thank the Senator from Arizona for not pursuing his amendment at this time, and I agree to work with him to try to find an acceptable solution. To further this effort, I am willing to hold a hearing on the matter.

Mr. SMITH of New Hampshire. Mr. President, I am very pleased that the energy package the Senate will pass contains a solution to the MTBE problem. This comprehensive MTBE legislative package protects our drinking water while preserving air quality and minimizing negative impacts on gasoline prices and supply. Solving the MTBE has been one of my top priorities for over two years. My legislation

was voted out of committee both last Congress and this Congress, and I am pleased that it was finally passed by the full Senate.

As Chairman of the Environment and Public Works Committee, I held a field hearing in Salem back in April 2001 to hear from the folks in New Hampshire about their MTBE problems. I have come to the floor on several occasions to speak specifically about New Hampshire families and small businesses that have been impacted by MTBE contamination. I have visited with many of my constituents who suffer with MTBE contaminated wells.

The Miller family—Christina and Greg, and their son Nathan—live in Derry, New Hampshire. This young family has been struggling for over three years with the MTBE contamination in their well. I spent time at the Four Corners Store and surrounding homes in the Town of Richmond, New Hampshire. Although the store's underground storage tanks are in compliance with the law, an MTBE plume persists from a tank that leaked years ago. This plume has contaminated a number of private wells of the homes near the Four Corners Store. The Goulas and Frampton families who live close to the Four Corners Store, were kind enough to invite me into their homes, and show me the massive treatment system that had been installed by the State. I am very pleased that I can tell these families and many others in New Hampshire that we are one important step closer to having an effective solution to the MTBE problem.

Specifically, this legislation bans MTBE; provides money for the cleanup of MTBE; eliminates the oxygen mandate in the RFG program, and maintains the current level of air quality protection. Additionally, the legislation requires the Environmental Protection Agency (EPA) to conduct an expedited review of state petitions to suspend the oxygen mandate in the RFG program. If the EPA fails to complete the review of a State petition within 30 days, the petition will automatically be granted. This provision could allow New Hampshire to begin to eliminate MTBE from the fuel system even before the oxygenate mandate is lifted.

Finally, the language includes $2 million for the research of techniques to cleanup bedrock contamination and to establish a clearinghouse for sharing the information. According to Dr. Nancy Kinner, a scientist from the University of New Hampshire, tracking and cleaning up MTBE in fractured bedrock is one of the greatest challenges we face as a result of MTBE leaks. This research will help to address that problem.

Mr. President, this was not an easy compromise to reach, but we have come together on an effective solution. I want to thank Senator DASCHLE for including my MTBE legislation in this energy package from the beginning of this process. I would also like to thank the Majority Leader for working so hard with me and other members to hammer out a compromise package and ensuring passage. Senators MURKOWSKI, INHOFE, and VOINOVICH were in tough positions but they worked tirelessly to come to this agreement—without them, we could not have solved the MTBE problem. I would also like to thank the stakeholders, including the refiners, ethanol producers, and environmental groups—all of whom have worked with me over the last few years to reach a consensus.

Last, I would like to thank all the Senate staff who worked on this package. Specifically, I would like to mention David Conover, Chris Hessler, Melinda Cross, Eric Washburn, Chris Miller, Alison Taylor, Janine Johnson, Dan Kish, Jamie Karl and Andy Wheeler. I am pleased that this comprehensive solution is supported by so many of my colleagues.

Mr. BIDEN. Mr. President, the energy bill that we will pass today is not the most perfect bill—there are a number of things in this bill that I don't like. What we will pass today is the product of two months of debate and changes, and it is a compromise. It offers the basis for a comprehensive and balanced plan to address the energy needs of this country.

Anyone who drives a car or pays an electric bill knows that over the past two years there have been huge fluctuations in oil and gas prices. The bill that will pass the Senate today by a bipartisan vote will increase energy supplies—fossil fuels and alternative sources such as ethanol, biodiesel, wind, solar and geothermal—will help stabilize prices, and will do so in an environmentally sensitive way. It provides tax incentives to spur new oil and gas production and development of renewable sources, while also promoting responsible conservation. It includes important consumer protections and assistance for low income persons, particularly the elderly who live on fixed incomes. And I was also pleased that this bill protects the Arctic National Wildlife Refuge from oil drilling, and takes important steps toward cutting greenhouse gas emissions.

I am voting in favor of this bill today because it provides an important framework for a national energy policy. I think that there is more we can do and I am hopeful that in conference, the House and Senate will work together to improve this legislation.

Mr. NELSON of Nebraska. Mr. President, I rise to explain the reality of ethanol production in the United States and do so in opposition to the amendment to postpone the renewable fuels standard implementation date.

There are currently 61 ethanol plants with the capability of producing 2.3 billion gallons of ethanol per year, the amount required by the current RFS on the starting date of January 1, 2004. Some opponents of the RFS claim ethanol plants operate at only 82 percent of capacity.

We have tried to explain that production is below capacity because the market for ethanol at a fair price is below production capability. In previous testimony, I have explained that certain big oil and gasoline companies simply refuse to use ethanol even when wholesale price is well below the wholesale price of gasoline and ethanol's high octane number is a free benefit. The RFS will change that situation.

However, to ease the concern of the RFS opponents, we have accepted their production number of 1.7 billion gallons in 2001—not the 2.3 billion gallon capacity.

There are currently 16 new plants under construction that will add another 400 million gallons of capacity, raising the total to 2.7 billion gallons of ethanol by year's end. Again, taking our opponents numbers, total production is forecast at 2.2 billion gallons.

From a review of proposed new ethanol plants in various stages of planning, design, engineering, permitting and financing, we can very conservatively estimate that another 300 million gallons of production capacity will come on line in 2003, to give us a total of 3 billion gallons capacity and 2.5 billion gallons of production, using the estimates of RFS opponents.

I know ethanol plant operators; they will exceed nameplate capacity when the market is there and the price is fair. We should also have well over 70 million gallons of biodiesel production by 2004. This is equivalent to about 100 million gallons of ethanol, using the 1.5 to 1 ratio for biodiesel and cellulosic biomass allowed by the RFS.

Consequently, without unforeseen obstacles, America will have the capability to produce about 3 billion gallons of ethanol when the RFS requirement is only 2.3 billion gallons to be used throughout 2004—giving us still more construction time in 2004. If a disaster hits, there are safety features in the RFS to deal with the problem.

I might add it is far more likely that a disaster in oil and petroleum product availability will occur than a shortage in the supply of ethanol. Should a fossil fuel disaster hit, ethanol supplies will be most welcome in keeping the price of gasoline down.

I will add to the RECORD an op-ed article written by a professor of rural sociology and environmental studies at the University of Wisconsin in Madison. It appeared in The Washington Post on April 4. It is titled ''Why We Can't Drill Our Way to Energy Independence.'' Professor Freudenburg ends his article with these thoughts: ''Only if we recognize the facts can we start to talk about a realistic energy policy. If the United States is ever to become energy-independent again, it won't be because of oil.''

The professor is right, and Senator KERRY was right when he said we have to create our way out of our dangerous dependence on foreign oil dependence.

I wish my colleagues, determined to weaken the ethanol industry, would

join the creative team by recognizing ethanol, biodiesel and other biofuels are a big part of the solution. We are all patriots. We are clear-sighted and determined to protect our national interest abroad and homeland security in America.

We seem, however, myopic in fully appreciating that transportation fuels do much more than move us to our jobs, our kids to school and goods to the market. They are absolutely vital to our economy, our well being—and to national and homeland security. Interrupt the flow of fossil fuels in our transportation sector and we are weakened in all of these sectors.

We must break that direct connection between fossil fuel imports and the overall well being of America. We can do so through the biofuels provisions in the RFS.

If we were real patriots, we would push beyond the goal of about 3 percent replacement by 2012 and set a goal of 10 percent or about 14 billion gallons by that year. In Nebraska, Iowa, Minnesota, and Illinois we are already well above the 10 percent mark.

For almost all States outside the Corn Belt, there are ample supplies of cellulosic biomass including agricultural and forestry crops and residues, rights-of-way, park, yard and garden trimmings and the biomass and fraction of municipal waste that is a disposal problem, and ends up in land fills and sewers.

We are on the cusp of the science and technologies to cost effectively convert this biomass into biofuels, bioelectricity and biochemicals. That is why I am promoting a ''Manhattan'' type approach in order to rapidly move forward with large demonstration plants and then on to full commercialization.

By working together and with adequate resolve, we can make the 10 percent goal and go beyond to the benefit of America's national, energy, and homeland security and its economy through new basic industries, quality jobs and an expanded tax base. The environmental benefits are equally important.

If the Senator from California is concerned about ozone formation resulting from the introduction of ethanol, she should look to Chicago and Milwaukee where they have been essentially using ethanol blends for years with air quality steadily improving.

If the California Senators are concerned about benzene in their ground water, they should call for reductions in benzene and other aromatics in gasoline. These other aromatics, toluene and xylene, partially break down into benzene, a potent carcinogen, in the combustion process, both in the engine and the catalytic converter. Ethanol can replace these aromatics to the overall benefit of the environment.

California will ban MTBE in 2004. Yet, the California Senators oppose the introduction of ethanol to replace MTBE. They want to turn to the aromatics and alkylates to meet supply and octane needs. The availability and costs of alkylates are unknown. The adverse environmental and health effects of aromatics are well known. Therefore, to accept aromatics and to oppose ethanol is a disservice to the people of California.

The opponents of ethanol bring up the possibility of price fixing by the ethanol industry. I believe bringing such unsubstantiated claims to the Senate, and used as arguments to damage the ethanol industry in its entirety while the future of ethanol is being debated, is regrettable. This sudden flood of media on this issue cast suspicion on the reality of these claims, and leads one to believe that enemies of ethanol are simply continuing their campaign to tarnish ethanol's reputation and the industry in its entirety.

If there are concerns about the price of ethanol, the reality of the marketplace should provide needed comfort. At the wholesale level, ethanol prices are well below those for MTBE, ethanol-free gasoline, the aromatics and, we assume, alkylates, since wholesale prices for this gasoline component are not available.

The RFS is the best option we have to reduce our dangerous dependence on imported oil and to gain other benefits I have already outlined. It is time to bring this debate to a close and to seriously move forward with national determination to lead the world in the production of biofuels, bioelectricity and biochemicals using cellulosic biomass and waste streams as feedstocks.

Mr. President, I ask unanimous consent the op-ed from the Washington Post be printed in the RECORD.

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

[From the Washington Post, Apr. 24, 2002]

WHY WE CAN'T DRILL OUR WAY TO ENERGY INDEPENDENCE

(By William R. Freudenburg)

WASHINGTON, Apr. 24.—It's time for a reality check on energy policy.

Politicians are fond of claiming that increased domestic oil production can restore energy ''independence,'' but anyone who actually believes those claims is living in a world of self-delusion. U.S. energy independence hasn't been physically possible since the days when Elvis was still singing, and if we're talking about oil, it won't ever be possible again.

There are two reasons. One is that the United States simply uses too much oil, too wastefully. The other is that we've already burned up almost all the petroleum we have. The calls for ''energy independence'' aren't based on realism; they're based on nostalgia.

To be fair, we've had quite a petroleum history. Back in 1859, the United States was the country where the idea of drilling for oil originated, and for nearly a century thereafter, we were a virtual one-nation OPEC. Save for a few years around the turn of the last century, the United States produced over half of all the oil in the world more or less continuously until 1953.

But ever since then, our proportion of world oil production has been dropping, with only minor fluctuations, no matter how much our politicians have tried to stop the slide. Ironically, around 1973, when President Nixon's ''Project Independence'' first brought the issue of energy policy (and the idea of energy ''independence'') to the minds of most Americans, the country moved decisively in just the opposite direction from independence. Even during the massive push to increase U.S. oil production in the years of Ronald Reagan and James Watt, the only real effect was a tiny increase in the U.S. proportion of world oil production—from 14.5 percent to 16.8 percent—between 1980 and 1985.

By the time Reagan left office, physical reality had reappeared, and the U.S. share of world oil production was even lower than when he started. In recent years, we have produced less than a tenth of the world's oil.

Why have politicians been arguing about oil exploration on the northern edge of Alaska, even as we keep moving further off the southern edge of the continent, into the ever-deeper waters of the Gulf of Mexico? It's simple: We've already drained almost everything in between.

Politically savvy spin doctors may be able to get many Americans to overlook the facts, at least in the short run, but they aren't going to change reality, and the aren't going to turn back the clock. According to the American Petroleum Institute, the United States is now down to just 3 percent of the world's proven reserves of oil. Wishful thinking isn't going to change that.

Unless the politicians can figure out how to turn their hot air into oil, we need to face the facts: It is no longer possible for the United States to drill its way to energy independence. This country simply doesn't have that much oil left, and if we use that oil faster, we will just run out sooner.

Only if we recognize the facts can we start to talk about a realistic energy policy. If the United States is ever to become energy-independent again, it won't be because of oil.

Mr. FEINGOLD. Mr. President, energy policy is an important issue for America, and my Wisconsin constituents take it very seriously. The bill before us seeks to address the balance of domestic production of energy resources versus foreign imports, the tradeoffs between the need for energy and the need to protect the quality of our environment, and the need for additional domestic efforts to improve our energy efficiency, and the wisest use of our energy resources. Given the importance of energy policy, an energy bill is a very serious matter, and I do not take a decision to oppose such a bill lightly. Mr. President, in my view, this bill does not achieve the correct balance on several important issues, and I will oppose this bill.

Though the bill as amended will revitalize the Federal Government's responsibility to regulate fuel economy, it weakens current law and exempts pickup trucks from any future increases in fuel economy standards. The amendment by the Senator from Michigan, Mr. LEVIN, on fuel economy which I supported requires the Department of Transportation to develop new fuel economy standards in 15 months for light trucks and 24 months for passenger cars. Taking pickup trucks off the table undermines a serious effort to re-think our fuel economy policy in a rulemaking context, and it is a direction I oppose.

In addition, Mr. President, as introduced, this bill contained a renewable

energy portfolio standard requiring electric utilities to generate or purchase 10 percent of the electricity that they sell from renewable sources by 2020. I supported an amendment offered by the Senator from Vermont, Mr. JEFFORDS, to increase this percentage to 20 percent, but on the floor the Senate adopted amendments to water it down to 8 percent. Moreover, with the exemptions for some utilities added to the bill, the real effect will be about 4–5 percent new generation from renewable sources by 2010. We can and should do more to use renewable sources of energy, and this bill should have set a serious target.

In addition, this bill repeals the proconsumer Public Utility Holding Company Act, the Federal Government's most important mechanism to protect electricity consumers. The Senate failed to adopt the amendment by my colleague from Washington, Mrs. CANTWELL, to strengthen consumer protections which I helped write and co-sponsored. The bill should have given the Federal Government more oversight over utility mergers and should have prevented utilities from passing on the costs of bad investments to consumers and from using affiliate companies from undercutting small businesses. Also the electricity provisions of the bill do not re-regulate trading of energy derivatives. This would have been addressed by an amendment offered by the Senator from California, Mrs. FEINSTEIN, which I supported, which would have fostered a more stable market with transparent transactions and helped to prevent another Enron.

Finally, I am also concerned that we added $14 billion in tax breaks without paying for them on this bill. Our budget position has deteriorated significantly over the last year, in large part because of the massive tax cut that Congress enacted. We now face years of projected budget deficits. The only way we will climb out of this deficit hole is to return to some sense of fiscal responsibility, and first and foremost that means making sure that the bills we pass are offset. Without offsetting the cost of the tax package, we are digging our deficit hole even deeper and adding to the massive debt already facing our children and grandchildren.

The American people deserved better with this bill, and I cannot vote in favor of it. This measure will need to improve in Conference to get my vote, and I look forward to an improved bill.

Mrs. BOXER. Mr. President, I will vote against the energy bill because it is a bad bill for California and the nation.

The bill includes an ethanol mandate for California that will raise gas prices. Cleaner air for California can be achieved without this mandate. Ethanol has been given a liability waiver if there are adverse consequences from its use. I tried to eliminate this waiver but lost on a 42–57 vote. We already know that ethanol may spread plumes of harmful chemicals, such as benzene, toluene, ethyl benzene, and xylene. So this is a dangerous waiver.

The energy bill does not do enough to protect consumers from another electricity crisis. I worked to include a measure in this bill that would have guarded against future market manipulation by companies like Enron by increasing oversight of the electricity market. Companies would be far less likely to gouge consumers if these additional protections were in place, but the Senate refused to pass this vital measure.

Also, I am disappointed that the Senate walked away from reasonable fuel economy standards and stronger air conditioner efficiency standards, which are so important to our environment and to lessening our dependence on foreign oil.

The ''good guys'' have had few wins. We were able to keep the provision of the bill to provide tax credits for alternative energy sources and alternative fuel vehicles. And we defeated an attempt to open the Alaska Wildlife Refuge to drilling, for which I am very thankful to the grassroots of California for all their efforts. But drilling in Alaska did get 46 votes, and I am concerned that with the bill passing the Senate, drilling in Alaska may not be dead in the conference committee.

In conclusion, the bill does more harm than good for the people of California.

Mr. KENNEDY. Mr. President, I must rise, regrettably, to oppose the energy bill. This legislation means higher gas prices and lower environmental protections for the American people, and it should be opposed.

I commend Senators BINGAMAN and DASCHLE for their leadership and their tireless work on this initiative. I believe I could have lived with many sections of the bill as introduced. I know there are many issues regarding our national energy policy upon which Senator DASCHLE, Senator BINGAMAN and I agree. However, in my opinion the bill in its current form falls far short of the mark for environmental and consumer protections, and forces us to rely on oil more than innovation for our energy needs for the foreseeable future.

The energy bill as introduced wasn't as bold as it could have been, but it represented an improvement over the status quo. It had higher goals for renewable energy. It maintained some consumer protections. There are still provisions in this bill that deserve everyone's support. It's true that we are raising the bar a bit in calling for renewable energy, though not enough. We're providing some tax credits for renewable energy production and energy efficiency. We're improving pipeline safety. We're investing resources in making renewable energy more efficient and profitable. We're conducting research on finding the most appropriate and effective places to site renewable energy facilities. We spoke very clearly that drilling in the Arctic Natural Wildlife Refuge is not in the interests of our economic or national security.

I am also pleased with Senator BAYH's leadership on clean-burning school buses, and I look forward to continuing our work together on this very important issue.

But I think this bill doesn't do enough to ensure that efficiency is a serious component of our energy policy. I commend Senators KERRY and MCCAIN for their efforts on fuel economy standards, but I'm very disappointed in the vote on CAFE. I'm also disappointed that the Senate couldn't find an agreement to set broad goals for fuel consumption as reflected in the Carper amendment. I fear we will be forced to revisit this issue again sooner rather than later.

I'm very concerned that we didn't do enough to protect consumers in this bill. Energy industries wanted fewer regulatory restrictions, and were rewarded in this bill. The underlying bill had adequate consumer protections, but they were watered down by amendments. In today's fast-paced world of energy trading, and mergers, we should err on the side of transparency and consumer protection. The energy bill doesn't do that.

I'm particularly concerned about the potential harm to the environment in this bill. This bill supports hydraulic fracturing. It forces States to use ethanol—and while ethanol clearly addresses air pollution, I'm concerned that the residue created by ethanol, known as EBTE, could pollute our water supply. We shouldn't be trading clean water for clean air.

The fuel oxygenate mandate provisions are cumbersome for Massachusetts. It forces our state to use more ethanol than it will be able to accommodate for several years. The infrastructure to transfer ethanol is inadequate, and when Massachusetts finds itself unable to meet the mandate, it will be forced to pay a credit—increasing gas prices at the pump. I'm also concerned about the impact to the highway trust fund—Federal resources from the gas tax should be spent on repairing and constructing roads and bridges. More ethanol would reduce the revenues in this fund and compromise our ability to maintain our transportation infrastructure.

I am very concerned about the liability protections given to industry. We're subsidizing and capping the liability costs of the nuclear industry in this bill—I believe if you're not prepared to bear the total costs of nuclear power, then you shouldn't enter the business. We're giving blanket product liability protections to fuel additive manufacturers, even though we don't have adequate information on their safety if they drain into our drinking water. An energy bill should be about innovation, conservation, and security—not about providing yet more liability protections for corporations when their products hurt people or the environment.

This bill has some improvements, but I'm sure the Senate could do better.

Mr. MCCAIN. Mr. President, regarding this energy proposal before the Senate proceeds to a final vote today. For 6 weeks, we have debated various aspects of this energy proposal. It's been the most exhaustive debate on energy related issues since 1992 when previous energy legislation was enacted.

In that 10-year time span, unfortunately, conditions have only worsened. America's dependence on foreign oil has increased from 46 percent to 57 percent. In 1992, gas prices were $1.13 per gallon. But, in recent times, consumers have had to absorb several price spikes in gasoline prices, some in excess of $2 per gallon. Special interest tax subsidies are also on the rise. In 1992, the Congress enacted $1.5 billion for energy tax credits and benefits for 5 years. This Senate bill includes more than $13 billion for 10 years, and this amount could increase since the House-passed energy bill includes more than $30 billion in energy tax subsidies.

As I listened to many of my colleagues debate these various issues on the Senate floor, the consistent message I have heard from both sides of the aisle is the need for a balanced energy policy, increasing U.S. energy stability, and protecting American consumers. These are all laudable and important goals. The end result, however, is a bill that falls significantly short of these goals and represents more benefits to special interests than to the American people.

One of the stated objectives of this new energy policy is to reduce America's dependence on foreign oil. Regrettably, we missed a critical opportunity when the Senate rejected a proposal to increase fuel efficiency standards, which would have substantially decreased our Nation's dependence on foreign oil and also reduced greenhouse gas emissions. Had we adopted an increase of fuel efficiency standards to 36 mpg average by 2015, we could have potentially saved 2.6 million barrels of oil per day by 2020. This amount is about equal to present imports from the Persian Gulf.

The Senate also rejected a modest effort to mitigate the growth rate of our Nation's oil consumption, which increases each year by an estimated 2.5 percent, by requiring the Secretary of Transportation to reduce the amount of oil we use to power passenger cars and light trucks by 1 million barrels per day by the year 2015.

Both these critical measures would have gone far to improve energy efficiency, the environment, and public health. By increasing CAFE standards by 46 percent and reducing our consumption of oil, we could also have reduced greenhouse gas emissions by 25 percent in Arizona alone, significantly improving the air that is negatively impacting our citizens. Instead, pressure from car manufacturers and industry won the day, and we rejected these modest approaches to improving energy efficiency and public health.

Another big benefactor in this bill is the ethanol industry. Not only does this bill propose a ten-year extension of tax benefits for the ethanol industry, it also requires that ethanol use in gasoline shall be increased three-fold by 2012.

Proponents of the new reformulated fuel standard requirement suggest that their intention is to help farmers, small ethanol producers, and replace the controversial fuel additive, methyl tertiary butyl ether, MTBE, which has been proven to contaminate groundwater. This new ethanol requirement is so important to its sponsors that they willingly override continuing public and scientific concerns about ethanol's impacts on the environment and public health. Unanswered questions remain about the Nation's production and transportation readiness for this expanded market. Billions will continue to be drawn from the Federal treasury to subsidize the ethanol industry.

The ethanol industry has enjoyed extremely generous subsidies for close to 30 years. By any business standard, it should be more than aptly competitive. This is a free market economy, yet, here we are, essentially guaranteeing the ethanol industry a monopoly on the gasoline market for the next 10 years. Plus, this bill continues the 5.3 cents-a-gallon tax subsidy and other ethanol tax benefits, which drain $1 billion annually from the Federal treasury. By tripling the amount of ethanol use, this amount could raise to $2.5 to $3 billion a year. This is poorly conceived public policy, and blatant corporate welfare at its worst.

Back in March of this year, I voted for the Job Creation and Worker Assistance Act of 2002. It was the economic stimulus package that provided temporary assistance for unemployed Americans and their families. At the time, I stated that we should not ignore the plight of millions of Americans who were laid off and wanted to return to work. I also said that my vote for this legislation should not be interpreted as a total endorsement of all of its provisions. Indeed, I stated my serious reservations about a particular provision in the bill that extended a tax credit to the industry in the business of converting poultry waste into electricity until the end of 2003.

Well, guess what? The tax incentives in the energy bill address the very same provision again but with a twist that will cost taxpayers $2.3 billion over the next 10 years. In the past, this income tax credit has been allowed for the production of electricity from either qualified wind energy, ''closed-loop'' biomass, or poultry waste facilities. But the bill before us not only extends this tax credit until the end of 2006, it also expands the qualifying energy resources to include geothermal energy and solar energy, ''open-loop'' biomass, and swine and bovine waste nutrients.

I am certainly glad that we have gone beyond helping the chicken waste industry now. Now, we have eliminated the discrimination in favor of chickens. We are awarding the productive use of the waste of pigs and cows. But why don't we totally eliminate this animal waste discrimination. Why not give a credit for the waste of dogs, cats, mice, birds? The list is infinite. Let's end discrimination now and give a tax credit for converting all kinds of animal waste. I am very confident that the American taxpayer will feel that their hard-earned money is being well spent. And if you believe that statement, I'm sure that there is some waterfront property in Gila Bend, AZ, you would be interested in buying.

Again, my concern is that the special interests continue to benefit at the expense of hard-working American taxpayers. I regret that I cannot support a bill that is so detrimental to taxpayers and does little to improve national energy security.

Mr. KERRY. Mr. President, today the Senate completed consideration of the energy reform bill after 6 weeks of debate. I voted yea on final passage. Before we began debate on this legislation, I gave a talk here in Washington at the Center for National Policy outlining a sound energy policy for this Nation. Despite my vote for the energy bill, I believe that the Senate has fallen far short of crafting a sound energy policy for this nation.

The Senate did not enact a national energy policy today. I should add that the House and President has failed at that task, as well. Why then am I voting for the Senate bill? Because the Senate bill is far better than the President's plan or the House bill. It is critically important that the Senate have a voice in this discussion and put forward its work. After 17 years in the Senate, I can see from this debate, that while the bill we passed today falls far short of what the Nation needs, it is simply the most the political system can bear right now. The fundamental changes we need were resisted and ultimately defeated by the special interests that benefit from the status quo. And while it may be too much to ask, I hold out hope that the bill can be improved in the conference process. If it is not improved, I do not believe I will be able to support the conference report.

I want to quickly outline some of the strengths in this bill and some of the weaknesses.

The tax package is reasonable and balanced. It totals about $15 billion, with that cost nearly equally divided between coal, oil, gas, and nuclear and energy efficiency and renewable energy. In the context of this measure, I support the assistance to clean coal, marginal well production, and other areas. I strongly support the tax credit for hybrid, fuel cell, and alternative fuel vehicles. I strongly support tax credits for efficient air conditioners, water heaters and other appliances. I strongly support the tax credits for wind, solar, biomass, geothermal, and

other renewable electricity and energy production.

The bill contains significant provisions to increase oil and gas production. As I have said, it includes new tax credits for marginal well and other production. It also includes loan guarantees and prices supports for the construction of a natural gas pipeline from the North Slope of Alaska to the Lower 48 States. This will move more than 35 trillion cubic feet of natural gas to market, be the largest private works project ever undertaken in North America, and create hundreds of thousands of jobs.

The bill also contains a very modest renewable portfolio standard that would require 10 percent of the Nation's electricity be produced from renewable energy sources by 2020. This standard is weaker than what I believe is possible. I have advocated that the Nation set a goal of producing 20 percent of its electricity from renewable sources by 2020. Unfortunately, the Senate not only accepted a lower target, but it adopted an amendment that undermines the integrity of the RPS system allowing for the purchase of inexpensive credits, credits potentially below the market price of renewable electricity. Nevertheless, it is important to enshrine this important concept of a renewable portfolio standard into law.

I supported the renewable fuel standard in the law. This provision was supported by the State of Massachusetts as a way to end more costly mandates under the Clean Air Act, ensure clean air, end the use of polluting MTBE, and create a national market for corn ethanol, biomass ethanol, and other renewable fuels.

The bill's most significant failure is that it does nothing to meaningfully reduce oil consumption or enhance efficiency in the transportation sector. The Senate rejected a proposal I crafted with Senator MCCAIN that would have raised fuel economy standards for America's passenger vehicles and save 1 million barrels of oil per day by 2015. The result is that the Senate has foregone action on the single greatest step we can take as a nation to reduce our dependence on oil, protect the economy from oil price shocks, and reduce harmful pollution.

For the past year I have urged my colleagues to oppose drilling in the Arctic National Wildlife Refuge. I am grateful that a majority of the Senate voted to protect the refuge. I am grateful that, while this bill is inadequate, it does not open the refuge to oil drilling. I will oppose any attempt to add drilling in this bill in conference with the House.

As I have said, this energy bill is not an energy policy for the Nation. It is a collection of policies, many good and many bad, that will, in total, move the Nation only incrementally forward. It is not by any means a solution to the challenges that we face. While I voted for this bill today, I pledge myself to continuing the fight for clean, reliable, and domestic energy and for a real energy policy for this Nation.

Mrs. FEINSTEIN. Mr. President, when the members of the Senate Energy Committee, including Senator SCHUMER, Senator CANTWELL, Senator WYDEN, and I, began talking about doing a comprehensive energy bill more than a year ago there were three major things all of us said that we wanted to see in the bill.

First we believed that we needed to reduce our energy consumption and hence our country's dependence on foreign oil.

Second we wanted to get to the bottom of what was happening with energy markets in California and the West where electricity and natural gas prices were 10–25 times higher that they should have been.

And we wanted to do all we could to ensure that a crisis of this magnitude could never happen again.

And third, we wanted to address global warming by quantitatively and measurably reducing our emissions of greenhouse gases.

These are still the elements I support in an energy bill. But the simple fact of the matter is that these elements are not in this bill.

First the Senate rejected Senator CANTWELL's and my amendment to provide transparency, oversight and authority by the Commodity Futures Trading Commission (CFTC) on energy derivative trading.

What we saw in energy markets was the on-line trading of energy commodities like natural gas and electricity multiple times to drive up prices and escape any federal oversight or transparency whatsoever.

This is what Enron was doing through its on-line trading company, Enron On-Line before the company went bankrupt.

And Dynegy and Williams, two companies operating on-line exchanges similar to Enron On-Line have taken over some of Enron's market share and are trading without oversight or transparency either.

The Senate had the opportunity to address this problem which arose from the Commodity Futures Modernization Act of 2000.

But instead the Senate rejected our amendment which would have ensured that there was proper oversight for energy trading.

So I don't think this energy bill will do a single thing that assures me that we won't have another crisis in my state.

The Senate also had the opportunity to pass legislation to increase fuel economy standards. Senator SNOWE and I introduced legislation last year that would have closed what is known as the SUV Loophole.

That loophole allows SUVs and other light duty trucks to meet lower fuel economy standards than other passenger vehicles. The standard is 27.5 miles per gallon for cars and 20.7 miles per gallon for SUVs.

Our bill would have saved a million barrels of oil a day, reduced our dependence on foreign oil by 10 percent, and prevented more than 200 million tons of carbon dioxide from entering the atmosphere each year.

It was the single most important thing our country could have done not only to combat global warming, but to become more fuel-independent at the same time.

I regret that we did not have the opportunity to vote on this measure as the Senate instead overwhelmingly defeated a much more ambitious proposal to significantly raise standards for all vehicles.

I am convinced that had we not done that, the Feinstein-Snowe amendment would have had a real shot at winning.

By a longshot however, the ethanol mandate is the most troublesome provision in the Senate energy bill.

What was also sneaked into this bill without a hearing was essentially a new gas tax that will result in a wealth transfer from California and New York and other coastal States to States in the Midwest.

It actually triples the ethanol market by mandate.

And if a State does not need it, it forces that State to buy credits to pay for it.

In fact, the mandate extorts California to use 2.68 billion gallons of ethanol over nine years that it does not need.

All this for a substance that is already subsidized to the tune of 53 cents per gallon and protected from any foreign competition through significant tariffs.

No one knows for sure how much gas prices will increase because of this mandate.

One recent analysis indicates that prices will increase 4 to 10 cents per gallon across the United States if the Senate energy bill becomes law.

I believe that the price spikes in California will be even more severe beginning in about 2004 as our State is close to our refining capacity and using ethanol will shrink our gasoline supply and force us to refine more.

California also does not have the necessary infrastructure in place to transport the ethanol to market.

I am particularly concerned about the limited number of suppliers in the ethanol market.

In fact, one company ADM controls 41 percent of the market.

And of course, nobody really knows the long-term health and environmental effects of nearly tripling the amount of ethanol in our gasoline supply.

Some evidence suggests that (1) reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it; and (2) ethanol enables the toxic chemicals in gasoline to seep further into groundwater and ever faster than conventional gasoline.

But just like when we introduced MTBE into our gasoline we simply

don't know what the ramifications will be.

And of course to top it off this bill protects these energy producers from any future liability.

And the funniest thing of all is that all this is for a gasoline additive that California and other States hardly need.

With the exception of the winter months in some of the southern part of the State, California can meet all its Clean Air Act Standards with its own reformulated gasoline.

In actuality we need to use very little ethanol.

So that is why I strongly oppose this bill and I believe we will rue the day we passed this ethanol mandate and this energy bill.

Mr. BUNNING. Mr. President, I rise today to talk about biodiesel, an alternative source of energy. I believe that we have made great strides on this energy bill. A sensible energy policy requires that we boost production of domestic energy sources while also balancing conservation. Biodiesel as an alternative fuel is one good way this energy bill will increase domestic production and lessen our dependence on foreign oil.

I am very happy to hear that the Finance Committee's tax proposals were added to this bill. The tax proposals included provisions that promote conservation and expanded use of cleaner burning fuel.

Also in these provisions are tax credits for biodiesel. The tax credits are a good start at encouraging the use of biodiesel as an alternative fuel source. However, the tax provisions do not treat all biodiesel the same.

There are many types of biodiesel including animal fats, recycled cooking oils or restaurant greases, and vegetable oils made up of soybeans, sunflower seed, canola, safflower seed, and flaxseed. In the tax provisions, though, the vegetable oils are treated differently than the animal fat and recycled oils.

There should be equal tax treatment for biodiesel. The different tax credits for biodiesel sends a confusing signal to the biodiesel market. It encourages growth only in one area of this beneficial renewable fuel, vegetable oil.

In addition, vegetable production has highly federalized subsidies and a lucrative byproduct market. For instance, glycerin from soy refining is used in a variety of food and pharmaceutical processes, and has a value advantage of 10–15 cents per gallon of biodiesel. The rendering industry, the primary source of animal-based biodiesel feedstocks, receives no Federal support and has a more limited byproduct market.

The unequal tax treatment is in stark contrast to the remainder of the energy bill. The bill includes all domestic energy sources in its renewable energy provisions and treats animal and vegetable sources biodiesel equally.

Kentucky has a large amount of soybean crops. So, I support encouraging the use of vegetable oil and support the tax credits in the bill. However, tax incentives should not discriminate between different kinds of alternative fuels.

One of the goals of the pending energy bill is to encourage development of renewable energy supplies. Including all sources in the tax provision will further this effort and maximize the positive impact on U.S. agriculture.

I hope that we find a way to encourage all alternative sources of energy. This is important to our production and will strengthen our national security.

Mr. JEFFORDS. Mr. President, I wish to state my support for the amendment offered by my distinguished colleague from Illinois, Senator FITZGERALD, and to express my extreme disappointment that it was not agreed to by this body.

This very sensible amendment would have clarified that the incineration of municipal solid waste will not be treated as renewable energy for purposes of the renewable portfolio standard and for the Federal renewable energy purchase requirement.

This issue arises because the burning of landfill waste in incinerators is one method of producing electricity. It produces only a minimal percentage of our electricity, but creates almost one quarter of the nation's mercury emissions, and significant levels of dioxin.

Dioxin, a known carcinogen, cause impairment of immune, nervous, reproductive and endocrine systems, even at extremely low concentrations. Infants are particularly sensitive to dioxin because of dioxin concentrations in human breast milk. Studies of infants show up to 65 times the maximum dioxin exposure recommended by the Environmental Protection Agency.

The National Academy of Science has found that although waste incinerators have reduced their dioxin air emissions, total dioxin releases in fly ash, bottom ash and other revenues have not decreased.

According to the most recent EPA data, 2.2 tons of mercury were emitted from garbage incinerators in 2000. This accounts for almost 20 percent of the nation's mercury emissions. Toxic amounts of mercury exist in our lakes, rivers and groundwater. Mercury causes neurological damage and birth defects, resulting in developmental delays and cognitive defects.

The renewable portfolio standard contained in the bill is intended to provide incentives and market support for the production of clean, renewable energy technologies. These include wind, solar, geothermal and biolass energy. One of the primary reasons for promoting these energy sources is that they give us clean power. They provide electricity that is free of the toxic wastes and emissions associated with many of our traditional fuel supplies.

Including the incineration of municipal solid waste in this category flies in the face of reason. If we want to keep mercury flowing into our streams and rivers, we can just pour more money into coal-fired power plants. An energy source that cripples our infants and causes cancer is not something we should support under the umbrella of renewable energy.

I am aware that incinerators have made significant strides in reducing toxic emissions. However, as I have stated above, municipal solid waste incinerators still account for 20 percent of nationwide mercury emissions, and still contribute to the release of highly toxic dioxins.

It is completely inappropriate to incentivize the continued release of these toxic substances as part of a provision aimed at clean, renewable energy.

Neither the amendment nor the underlying bill language would in any way undermine or hamper the current incineration of municipal solid waste, and would not prohibit or discourage new incineration. Neither the amendment nor the underlying bill language will not create new regulations regarding incineration of municipal solid waste, nor change existing ones. All this amendment would have done is ensure that municipal solid waste is not encourage as a renewable energy resource.

Including energy sources that result in highly toxic emissions does however undermine the foundation of the renewable portfolio standard, which is to help clean, renewable energies to compete against other energy sources.

Mr. President, I am greatly disappointed that this amendment was defeated but intend to address this issue further in conference.

Mr. REID. Mr. President, the world's energy system has evolved for thousands of years.

Almost without trying, the global energy system has favored fuels that burn cleaner and more efficiently: from wood burning in prehistoric caves to the Franklin stove of the 18th century; to coal despite the fact that wood was more abundant; to oil required to meet the insatiable needs of a motorized transportation sector at the start of the 20th century; to natural gas, which can be distributed through a system of pipes right into the kitchen or a home furnace, or easily converted into electricity; and now to renewable energy sources.

Faced with uncertainties in electricity energy markets, turmoil in the Mideast, the need to cut back on the fossil fuel emissions linked to global warming, local and regional air pollution that contributes to high rates of asthma and smog-filled national parks, the United States must diversify its energy supply using renewable energy.

If State regulators approve Nevada Power's latest rate proposals for 2002, Las Vegas electricity rates will have jumped a total of 75 percent since 1999. In the same period, natural gas prices have doubled. We need to change the energy equation. We need to diversify

the Nation's energy supply to reduce volatility and ensure a stable supply of electricity. We must harness the brilliance of the sun, the strength of the wind, and the heat of the Earth to provide clean, renewable energy for our Nation.

I am also pleased that the energy bill currently before the Senate contains a renewable portfolio standard requiring that a small, gradually growing percentage of the nation's power supply come from renewables such as wind, solar, biomass and geothermal sources over the next two decades.

I am pleased that the tax provisions of this bill strengthen the production tax credit for renewable energy resources.

Eligible renewable energy resources have been expanded from wind and poultry waste to include geothermal, solar, open-loop biomass, and animal waste. The credit has been extended for 5 years for geothermal and solar, and animal waste, and 3 years for biomass. We need this production tax credit to provide business certainty and ensure the growth of renewable energy development and to signal America's long-term commitment to renewable energy. It is time to level the playing field—subsidies for fossil fuels dominate the Federal Tax Code, with 62 percent of all Federal tax expenditures going to oil and gas companies.

After pouring billions into oil and gas, we need to invest in a clean energy future.

Other nations are developing renewable energy resources at a much faster rate than the United States. In 1990, America produced 90 percent of the world's wind power; today we generate less than 25 percent. Germany now has the lead in wind energy, and Japan in solar energy. Foreign corporations are using the same technology available to us—in fact, many of these technologies were developed in the U.S. But they have surpassed us because their governments have provide stable support for renewable energy production and use. America needs to reestablish its leadership in renewable energy.

In the U.S. today, we get less than 3 percent of our electricity from renewable energy sources like wind, solar, geothermal and biomass. But the potential for much greater supply is there. For example, Nevada, is considered the Saudi Arabia of geothermal. My state could use geothermal energy to meet one-third of its electricity needs, but today this source of energy only supplies 2–3 percent. This needs to change.

The good news is that the production tax credit for renewable energy resources really works to promote the growth of renewable energy.

In 1990, the cost of wind energy was 22.5 cents per kilowatt hour and, today, with new technology and the help of a modest production tax credit, wind is a competitive energy source at 3 to 4 cents per kilowatt hour. At the Nevada Test Site, a new wind farm will provide 260 megawatts to meet the needs of 260,000 people—more than 10 percent of Nevada's population within 5 years. In the last 5 years, wind energy has experienced a 30 percent growth rate. In 2001, wind energy capacity grew nationally from 2,600 Megawatts to 4,300 Megawatts, a 65 percent increase. With the benefit of the production tax credit, wind energy is the fastest growing renewable. We need to do the same for the other renewable energy resources.

America needs to build its energy future on an environmental foundation that protects air and water quality.

A recent article in The Journal of the American Medical Association revealed an alarming link between soot particles from power plants and motor vehicles and lung cancer and heart disease.

This was an exhaustive study of 500,000 people in 16 American cities, whose lives and health have been tracked since 1982. Experts gave the study high marks. Its conclusions are obvious—we need to do a better job protecting the air we breathe.

The adverse health effects of power-plant and vehicle emissions cost Americans billions in medical care, and our cost in human suffering is immeasurable. Simply put, the human cost of dirty air is staggering. If we factor in environmental and health effects, the real cost of energy becomes apparent, and renewables become the fuel of choice.

America's abundant and untapped renewable resources can fuel our journey into a more prosperous and safer tomorrow without compromising air and water quality. The potential is enormous. We need to expand and extend the production tax credit to enable renewable energy to compete on a playing field that currently is heavily inclined towards the continued production of oil, gas, and coal. In many States, including Nevada, expanded renewable energy production will provide jobs in rural areas—areas that are desperate for economic growth.

I urge my colleagues to support this tax package, with its provisions for a production tax credit to encourage the growth of renewable energy resources. Renewable energy—as an alternative to traditional energy sources—is a common-sense way to make sure that the American people have a reliable source of power at an affordable price. Renewable energy is the cornerstone of a successful, forward looking, and secure energy policy for the 21st century.

Mr. REID. Mr. President, it is my understanding we are now going to move to final passage. I would like to say, before everyone votes—and we will be very quick here—we have spent approximately 6 weeks on this bill. It has been a tremendous amount of time and I have been here a lot of the time. But I want to extend the full appreciation of the entire Senate for the work done by the two managers of this bill. Senator BINGAMAN and Senator MURKOWSKI have worked through some very difficult issues. I think they have made the Senate very proud in the work they have done.

Mr. LOTT. Mr. President, I cannot let this opportunity go by. I will be brief so we can vote. I know Senators have obligations they want to fulfill, but I have to say we do owe a debt of gratitude from the Senate as a whole to the chairman and the ranking member of the Energy and Natural Resources Committee. They have been at this for 6 weeks. It has been at least 5 years since we spent that long—I don't think, since I have been in the Senate, we have spent 6 weeks on a bill. So this is a monumental undertaking. It is coming to a positive result.

They provide bipartisan leadership. They have been persistent, and I thank them for that. I especially have to say to my colleague from Alaska, I appreciate his attitude. Even though I know his feelings on an issue that meant so much to him and the other Senator from Alaska, Mr. STEVENS, he said we had to move forward on an energy policy for this country.

You did the right thing for your country. I know in the end we are going to do the right thing for you and your State, too.

I yield the floor.

Mr. DASCHLE. Mr. President, we are now reaching the end of 6 weeks of debate on this energy bill. I want to thank Chairman BINGAMAN for his tireless leadership.

He began this process by coordinating the work of nine separate committees, and he has done an amazing job of shepherding this large, difficult, and sometimes contentious piece of legislation to its conclusion.

When we began this energy debate, I spoke about the need to keep in mind four key goals. I said that any energy plan we pass should increase our energy independence . . . it should be good for consumers . . . it should create jobs . . . and it should be responsible—both environmentally and fiscally.

In a number of places, this bill meets those goals. In some, it falls short. But overall, this is a far more responsible, progressive, consumer-friendly energy policy than the one advanced by the Administration, or passed by the House.

Our energy plan invests in new ideas, new technologies, and new approaches to old problems.

It demonstrates that our energy policy need not be a tug-of-war between increased production and increased conservation. This bill helps us do both.

For example, this bill encourages the construction of a pipeline to bring natural gas from Alaska to the lower forty-eight states. There are 35 trillion cubic feet of known natural gas reserves on the North Slope of Alaska.

Right now, that gas is being pumped back into the ground because there's no way to get it to the American consumers who need it.

Our nation faces a long-term shortage of natural gas, all experts agree. An Alaska pipeline would deliver at least 4.5 billion cubic feet of gas per day to the Midwest, the central point of the nation's gas delivery network. 4.5 billion cubic feet per day is nearly ten percent of America's daily gas consumption.

Last month, Alaska Governor Tony Knowles met with me to discuss the additional provisions he felt were needed to invigorate this project. At his urging, and with the strong support of Senators MURKOWSKI and STEVENS, the bill we are clearing for conference today not only assures that any gas pipeline from Prudhoe Bay will run through Alaska, it also seeks to assure access to the gas for residential and business users in Alaska, protects access to the pipeline for future gas discoveries, and reduces the financial risk resulting from wildly fluctuating gas prices.

The provisions we added are important to our nation's energy and economic security, and improve the viability of the Alaska gas pipeline project. They should be retained in conference, and I will work with Senator MURKOWSKI and Governor Knowles to protect them.

That pipeline is one example of how this bill will allow us to use our traditional fossil fuel supplies more intelligently.

Other examples include tax incentives to increase common-sense conservation in our homes, expand the use of renewable energy like wind, solar and geothermal power, and encourage investments in new technologies to help us use energy sources like coal in a more clean and efficient manner.

And, when it comes to energy efficiency, this bill also says that the federal government must lead by example.

I also said at the beginning of this debate that we already look for the ''Made in America'' label on our clothes. We need to put that same ''Made in America'' label on our energy, too.

That's why this bill includes tax incentives to help us diversify our energy supplies by harnessing the power of the wind, the sun, and the heat of the earth itself, and to keep the energy produced from those sources affordable.

And that's also why this bill triples the amount of ethanol we use.

Yesterday, I was out in South Dakota at an ethanol plant with President Bush. I agree with the President when he said, ''[ethanol is] important for the agricultural sector of our economy, it's an important part of making sure we become less reliant on foreign sources of energy.''

To that I would add that it's an important way of keeping our air clean, as well.

Tripling the use of ethanol is a win, win, win, and I'm glad that's what this bill does.

The electricity provisions in this bill will shore up the authority of the Federal Energy Regulatory Commission to make our electricity more reliable and competitive, and will establish a small but important renewable portfolio standard.

Remember, ethanol and renewable energies come from American farmers and producers, pass through American refiners, and fuel American energy needs.

No soldier will have to fight overseas to protect them. And no international cartel can turn off the spigot on us.

It is important we make sure these provisions stay as part of this bill in the conference.

On a personal note, I should add that crafting this fuels compromise took enormous effort, and I would like to thank Senators JIM JEFFORDS and BOB SMITH of the EPW Committee, as well as Senators TIM JOHNSON, DICK LUGAR, BEN NELSON and CHUCK HAGEL for their vision and hard work.

I do regret that we failed to keep the vehicle fuel-efficiency provisions that were originally in this bill—something that could have been done without affecting safety or performance.

That measure we would have saved American drivers billions of dollars—and saved our nation the same amount of oil we are currently importing from the Persian Gulf.

Bold steps like that would have moved us much closer to energy independence, and I hope that we can work to increase vehicle fuel efficiency in conference.

While I am frustrated that we didn't take that large step forward, Congress did the responsible thing by refusing to take a huge step backward by opening the Arctic National Wildlife Refuge for oil drilling.

Ultimately, a bipartisan majority of the Senate concluded that drilling in the Arctic Refuge would do very little to help our economic situation or increase our energy independence—but would do a lot to damage one of the last pieces of pristine wilderness in this country.

Finally, this bill reflects the growing bipartisan consensus that the threat of global climate change is real and, unless we act, will have devastating consequences for our children and grandchildren.

The climate change provisions in this bill will help restore American credibility in this area and begin the long-overdue process of American engagement in solving this growing problem.

In the end, this bill recognizes that we can't be content to pursue an energy policy based upon the old philosophy of dig, drill, and burn—and begins the process of moving towards more innovative approaches to our energy future.

It doesn't get us all the way there, but it gets us moving in the right direction.

I am hopeful that we can continue to move even further in that direction when this bill goes to conference. But for that to happen, we need to pass this bill now.

It has been six weeks on the floor.

We have had a good, open, and fair debate. We've debated and voted on dozens of amendments.

Let us acknowledge the important role of conservation and renewable sources for our nation's energy future.

Let us start moving towards a more balanced and far-sighted energy policy.

Let us pass this bill.

The PRESIDING OFFICER. Under the previous order, the substitute amendment, No. 2917, as amended, is agreed to.

The amendment (No. 2917), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 517) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 4 by title.

The legislative clerk read as follows:

A bill (H.R. 4) to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 517, as amended, is inserted in lieu thereof, and the clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. BINGAMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The 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 88, nays 11, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—88

Akaka	Cochran	Hagel
Allard	Collins	Harkin
Allen	Conrad	Hatch
Baucus	Corzine	Hollings
Bayh	Craig	Hutchinson
Bennett	Crapo	Hutchison
Biden	Daschle	Inhofe
Bingaman	Dayton	Inouye
Bond	DeWine	Jeffords
Breaux	Dodd	Johnson
Brownback	Domenici	Kerry
Bunning	Dorgan	Kohl
Burns	Durbin	Landrieu
Byrd	Edwards	Leahy
Campbell	Ensign	Levin
Cantwell	Enzi	Lieberman
Carnahan	Fitzgerald	Lincoln
Carper	Frist	Lott
Chafee	Grassley	Lugar
Cleland	Gregg	McConnell

Mikulski	Santorum	Thomas
Miller	Sarbanes	Thompson
Murkowski	Sessions	Thurmond
Murray	Shelby	Torricelli
Nelson (FL)	Smith (NH)	Voinovich
Nelson (NE)	Smith (OR)	Warner
Nickles	Snowe	Wellstone
Reid	Specter	Wyden
Roberts	Stabenow	
Rockefeller	Stevens	

NAYS—11

Boxer	Graham	McCain
Clinton	Gramm	Reed
Feingold	Kennedy	Schumer
Feinstein	Kyl	

NOT VOTING—1

Helms

The bill (H.R. 4) was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. BINGAMAN. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint conferees in the following ratio: Energy Committee, 6 to 5; the Finance Committee, 3 to 2.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider two nominations.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that one vote suffice for both judges on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. BREAUX. I object.

Mr. WELLSTONE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I did not hear the request.

The PRESIDING OFFICER. The Senator from Oklahoma asked that one vote suffice for the two nominations.

Mr. WELLSTONE. I object.

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish the Senator had the courtesy of telling the chairman what he was going to recommend. I would have pointed out to him that under the Senate practice and procedure, that cannot be done. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. DASCHLE. Mr. President, just for the information of our colleagues, there will be no more votes tonight after the two votes we have on the judges. The next vote will occur on Monday evening at approximately 5:30. There will be no votes tomorrow.

NOMINATION OF JOAN E. LANCASTER, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota, which the clerk will report.

The assistant legislative clerk read the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota.

Mr. LEAHY. Mr. President, with today's votes on Judge William Griesbach to the U.S. District Court for the Eastern District of Wisconsin and Justice Joan Lancaster to the United States District Court for the District of Minnesota, the Senate will have confirmed its 40th and 41st district court judges in the less than 10 months since I became chairman this past summer. This is in addition to the nine judges confirmed to the courts of appeal.

With today's votes, the total number of Federal judges confirmed since the change in Senate majority will now be 50. As our action today demonstrates, again, we are moving to confirm President Bush's nominees at a faster pace than the nominees of prior Presidents.

It took almost 14 months for the Senate to confirm 50 judicial nominees for the Reagan administration. It took more than 15 months for the Senate to confirm 50 judicial nominees for the Clinton administration. And it took nearly 18 months for the Senate to confirm 50 judicial nominees for the George H.W. Bush administration.

At the risk of offending some of my colleagues, we have confirmed 50 judicial nominees in 10 months—while it took the Senate nearly twice that amount of time to confirm the same number of his father's judicial nominees and nearly 50 percent more time to confirm the same number of President Clinton's and President Reagan's nominees. With today's confirmations, in the fewer than 10 months since the shift to a Democratic majority in the Senate, President Bush's judicial nominees have been confirmed at a rate of five per month, a pace nearly double that of the average for the last three Presidents, two of whom had Senates led by their own party.

The confirmation of these nominees today demonstrates our commitment promptly to consider qualified, consensus nominees. I commend Senator KOHL and Senator FEINGOLD who worked with Chairman SENSENBRENNER to utilize a bipartisan commission process to recommend District Court nominees as has been the practice in Wisconsin for over 20 years.

Once confirmed, Judge Griesbach, who is a well-regarded judge in Eastern Wisconsin, will be the first District Judge to sit in Green Bay, WI.

Justice Lancaster, like Judge Griesbach, received the support of her Senators, Democrats who endorsed this Bush nominee. Both nominees appear to be the type of qualified, consensus nominees that the Senate has been confirming expeditiously to help fill vacancies on our Federal courts. I congratulate them and their families.

With today's votes on Judge Griesbach and Justice Lancaster, in fewer than 10 months of Democratic leadership, 50 judicial nominees have been confirmed. That number exceeds the number of judicial nominees confirmed during all of 2000, 1999, 1997 and 1996, four out of six full years under Republican leadership. I would like to commend all Senators, but in particular the members of the Judiciary Committee, for their efforts to consider scores of judicial nominees for whom we have held hearings and on whom we have had votes during the last several months.

Mr. HATCH. I rise to support the nomination of Joan Ericksen Lancaster to be U.S. District Judge for the District of Minnesota.

I have had the pleasure of reviewing Justice Lancaster's distinguished legal career, and I have concluded as did President Bush, that she is a fine jurist who will add a great deal to the federal bench in Minnesota.

Justice Lancaster's record of service in private practice and for the government is exemplary of the quality of judges the President has nominated.

Following her graduation from the University of Minnesota Law School, Justice Lancaster worked as an Assistant City Attorney, trying approximately 12 jury and 40 court trials.

From 1983 to 1993, Justice Lancaster served as an Assistant U.S. attorney for the District of Minnesota, representing the federal government in medical malpractice, tort, and insurance matters, and later prosecuting Federal crimes. Justice Lancaster then worked for several years as a partner with the Minneapolis firm of Leonard, Street & Deinard.

In 1995, Justice Lancaster was named as a District Court Judge in the 4th Judicial District in Minnesota, where she was assigned to family and juvenile cases. She also presided over adult civil and criminal matters.

Since 1998, she has served as an Associate Justice on the Minnesota Supreme Court.

Justice Lancaster is liaison to the Court's Juvenile Delinquency Rules Committee and has served as chair of the Minnesota Supreme Court Task Force on Juvenile Justice Services.

She has also served on a statewide task force devoted to addressing the problem of fetal alcohol syndrome.

I have every confidence that Justice Joan Lancaster will serve with distinction on the federal district court for the District of Minnesota.

Mr. WELLSTONE. Mr. President, I commend to the Senate for confirmation tonight the nomination of Justice

Joan Ericksen Lancaster to serve as a judge of the United States District Court in Minnesota. I also thank Chairman LEAHY and Senator HATCH for moving this nomination through the Senate so quickly.

Chairman LEAHY has been criticized by some Republicans, at times grossly unfairly, for the pace with which certain nominees have come through the committee. This nomination, which has enjoyed broad bipartisan support here in the Senate, has moved very quickly, and for that I am very grateful. It is a model of how this process should work, and I would hope the White House would see it in those terms as the President makes future Federal judicial nominations.

The Senate will have no problem offering its advise and consent to experienced, able jurists like Joan Lancaster, with longstanding records of public service in their communities, who are deeply committed to equal justice and equal opportunity for all Americans. But when the President nominates controversial figures with very extreme views, or records which call into question their commitment to equal opportunity and equal justice, the Senate will take more time to scrutinize those records and to determine if they deserve its consent, and reject them if they don't.

Justice Lancaster's qualifications are outstanding. She is currently serving with distinction as an Associate Justice on the Minnesota Supreme Court, and has held that position since 1998. She has also served as a Judge of the 4th District Court in Hennepin County for three years, and as a Partner at the law firm of Leonard, Street and Deinard in Minneapolis for two years before that. Particularly relevant to the position for which she is being confirmed tonight are her ten years as an Assistant U.S. Attorney in the District of Minnesota, where she provided leadership in both the civil and criminal divisions.

Justice Lancaster's compassion, her deep commitment to creating a better, more just society and her record of public service are enormously impressive. She has lived what she speaks. She as a co-chair of the Governor's Task Force on Fetal Alcohol Syndrome, chaired the Minnesota Juvenile Justice Services Task Force, chaired a number of important committees on the operations of the court, and has served on the boards of a host of other important Minnesota-based organizations dedicated to the causes of children, the legal system, and education. Her stints as a distinguished law professor at the University of Minnesota and the William Mitchell College of Law highlight her impressive intellectual and courtroom talents.

Through these and her many other professional accomplishments, Justice Lancaster has earned the high regard of her peers. She received a well-qualified rating from the American Bar Association and she was reported out of the Judiciary Committee unanimously, and has from the start enjoyed my enthusiastic support and that of Senator DAYTON.

In my conversations with judges, and lawyers who have both practiced with an argued before Justice Lancaster, it is clear that she is widely respected and is seen as a brilliant, thoughtful and independent jurist with a deep commitment to justice and to the American promise of equal opportunity for all before the bar of justice. I thank Representative RAMSTAD and President Bush for this excellent nomination, and again than Senator LEAHY for moving her quickly through the process.

I congratulate Justice Lancaster and her wonderful children, John and Claire, whom I have had the pleasure to meet. I know Justice Lancaster will continue to serve as an outstanding jurist in Minnesota, and I offer her my warn congratulations, anticipating her confirmation. I commend her to the full Senate enthusiastically, and am confident she'll receive an overwhelming vote of support.

Mr. President, on behalf of myself and the Presiding Officer, Senator DAYTON—unless he is going to be able to join me on the floor—we congratulate Justice Joan Ericksen Lancaster, who will now serve as a judge for the United States District Court in Minnesota.

She is highly qualified. We thank Senator LEAHY and Senator HATCH for moving this so quickly. We thank all of our colleagues.

I want to say a special hello to her wonderful children, John and Claire. I believe she is watching this proceeding.

You should be proud, Judge Lancaster.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Minnesota.

Mr. DAYTON. Madam President, I second the comments of the senior Senator from Minnesota.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota? The yeas and nays were previously ordered on the nomination. The clerk will call the roll.

The 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. 95 Ex.]

YEAS—99

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

NOT VOTING—1

Helms

The nomination was confirmed.

NOMINATION OF WILLIAM C. GRIESBACH, TO BE UNITED STATES DISTRICT COURT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of William C. Griesbach, to be United States District Court Judge for the Eastern District of Wisconsin.

Mr. HATCH. Madam President, I rise to support the confirmation of William C. Griesbach to be U.S. District Judge for the District of Wisconsin.

I have had the pleasure of reviewing Mr. Griesbach's distinguished legal career, and I have come to the opinion that he is a fine lawyer who will add a great deal to the Federal bench in Wisconsin.

Judge Griesbach is a Wisconsin native and attended both college and law school in the area. He graduated from Marquette University in 1976 and from Marquette University Law School in 1979.

After graduation from law school, Judge Griesbach served as a law clerk to the Honorable Bruce F. Beilfuss, Chief Justice of the Wisconsin Supreme Court. He then worked for 2 years as a staff attorney for the U.S. Court of Appeals for the 7th Circuit before joining a Green Bay law firm where he spent 5 years as an attorney handling primarily civil cases, including personal injury, insurance, commercial and employment litigation.

In 1987, he returned to public service as an Assistant District Attorney in Brown County until 1995 when he was appointed to the Wisconsin Circuit Court for Brown County, the position in which he currently serves.

His docket has included the full range of cases appearing before a State trial court, including criminal, civil, juvenile and domestic matters.

In 1998, he was ranked highest among local circuit judges in several categories, including temperament, fairness, and judicial scholarship.

Judge Griesbach has also made substantial contributions to the community, serving as a board member for

Wisconsin Family Ties, a non-profit organization that provides information and support to families with children that have mental, emotional and behavioral disorders; as a board member of the Family Violence Center in Green Bay; and as a board member of Legal Services of Northeast Wisconsin, a nonprofit organization that provides legal services for the poor.

I have every confidence that William Griesbach will serve with distinction on the Federal district court for the District of Wisconsin.

Mr. KOHL. Madam President, today is a proud day for the state of Wisconsin. For 10 years we have worked to establish the Green Bay judgeship that makes this day possible. And for far longer, Judge Griesbach has developed the ability, gained the experience and cultivated the temperament necessary to be the first Federal judge to sit in Green Bay.

We are confident that Judge Griesbach is the right man for the job. He possesses all the best-qualities that we look for in a judge: intelligence, diligence, humility, and integrity.

The Green Bay community has waited a long time for a Federal judge. When Judge Griesbach is sworn in we think they will find it was well worth the wait.

The lawyers who practice in front of Judge Griesbach agree. In a 1998 survey by the Green Bay News Chronicle, Brown County attorneys ranked Judge Griesbach as the best judge in the area. In fact, he was rated first in every category polled, including: temperament; fairness; legal scholarship; work habits; and decisiveness. That is quite a testament to his ability.

So, it came as no surprise that the bipartisan Wisconsin Federal Nominating Commission concluded that Judge Griesbach would make a fine Federal judge. For the past 23 years, Wisconsin has used a nominating commission to select candidates for the Federal bench. Through a great deal of cooperation and careful consideration, and by keeping politics to a minimum, we always find qualified candidates. Judge Griesbach's selection demonstrates that our process has succeeded once again.

The Commission's reasons for his recommendation became apparent when I met him for our interview. He was candid, humble, and thoughtful. He has impressed everyone. He also made a fine impression during his Senate Judiciary Committee hearing.

Judge Griesbach will inaugurate a tradition of fair and well-respected jurists in northeastern Wisconsin. I support Judge Griesbach's nomination and commend our colleagues for supporting this fine judge.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William C. Griesbach, to be United States District Court Judge for the Eastern District of Wisconsin? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Kansas (Mr. BROWNBACK) are necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 96 Ex.]

YEAS—97

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

NOT VOTING—3

Brownback	Helms	Inhofe

The nomination was confirmed.

Mr. DASCHLE. Madam President, I wanted to make note of a very important fact with regard to judicial nominations. With the confirmation now of the two judges tonight, we have reached an even 50 so far since we have become members of the majority. Forty-one district judges and nine circuit judges have now been confirmed. We have now exceeded the number of judges confirmed in the first year of the Reagan administration, the first Bush administration, and the Clinton administration. We have done that in 10 months, not 12. We will do much more over the course of the next 2 months, but I think it is a record of which we can be very proud. It is a record about which we feel very strongly. It is a record we said we would deliver when we became members of the majority. It is a record I think bears some attention, especially now that we have reached 50 confirmations in this relatively brief period of time.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I want to take a moment to congratulate, first, the extraordinary effort made by the Chair of the Energy Committee, Senator BINGAMAN. I think he has put more time on the floor in the last few weeks than anybody in recent times. Were it not for his patience and extraordinary willingness to work with all of us, we would not be celebrating the successful conclusion of this work today.

I know I speak for all Senators and congratulate him and commend him for the work and leadership he has shown and for the tremendous contributions he has made to public policy in energy today. I am grateful for his friendship, but I am especially appreciative of his leadership, and I think that ought to be recognized.

I also congratulate the ranking member, the Senator from Alaska, for his efforts as well. I know there may not be any more important legislation from the Senator from Alaska than this one. He has demonstrated a resolve and an extraordinary persistence, and were it not for his efforts and the work he has done, especially in recent weeks, we would not be here as well. So he also deserves special commendation and recognition for the remarkable job he has done.

Finally, as is the case in so many instances, the distinguished assistant Democratic leader deserves recognition. He does not like it when I do this, but I do think it is important for the historical record to note that his constant presence on the floor, his willingness to work with Senators in working through the amendment logjams on so many occasions was absolutely invaluable. So I thank him as well for his constant effort on the floor, but in particular on this bill.

I thank all of our colleagues, and I appreciate very much the work that has been done.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, before the majority leader leaves, let me return the compliment. This was the Daschle-Bingaman bill we passed in the Senate. It was his leadership that was absolutely essential in getting this to the floor and his continuing leadership in keeping it on the floor. He has devoted 6 weeks of Senate floor time to this bill, and at many crucial points he made absolutely essential decisions to get us to closure.

Let me also indicate what everyone in the Senate knows, and that is without the superb work that Senator REID, our assistant floor leader, does, without his tremendous effort, we could not possibly have completed this work. He was present every day, every hour, moving this bill forward, working with

Senators on both sides of the aisle. To the extent we have succeeded, he deserves the lion's share of the credit.

Let me also acknowledge the great work Senator MURKOWSKI has done. He has been committed to getting an energy bill through the Senate for a very long time. He had strongly held views on certain aspects of that bill, with which we are all familiar. He was very committed also, though, to work with those of us on this side of the aisle to see to it that we got a bill through the Senate. So I compliment him.

I did want to also thank and compliment the excellent staff we had on the Energy Committee. First, I thank Bob Simon, who is the staff director for the Democratic side in the Energy Committee. He did a superb job working on every aspect of this.

I have a long list of folks to thank. I will run through the list. I acknowledge the tremendous contribution each one has made: Vicky Thorne, who is central to our activity, John Watts, Bill Wicker, Patty Beneke, Jonathan Black, David Brooks, Shelley Brown, Mike Connor, Deborah Estes, Kira Finkler, Sam Fowler, Amanda Goldman, Leon Lowery, Jennifer Michael, Shirley Neff, Malini Sekhar. All of those staff people on our Energy Committee did an absolutely superb job. My personal staff, James Dennis, John Epstein, and John Kotek, all made a great contribution.

The floor staff the cloakroom staff did a tremendous job, Lula and Marty and all the others who have worked on this bill. They work day in and day out on the floor and do a superb job. I appreciate their good work.

Senator DASCHLE's staff, Eric Washburn, Peter Umhofer, and Senator REID's staff, Peter Arapis, all did a wonderful job, and I appreciate the good work. Those of us who are elected to these jobs get to take the credit, but we know who actually does the work.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Briefly, I note the contribution of our staff. As is always the case, we could not do what we do were it not for them. On this particular bill, I think their contribution will never be fully calculable, but it was invaluable. I thank our floor staff profusely for their effort. As Senator BINGAMAN noted, Eric Washburn from my staff has been a remarkable contributor to our effort. Were it not for his daily counsel, I would not have been able to accomplish what we have.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the majority leader for his comments, and I thank my good friend Senator BINGAMAN. I think it is noteworthy that we are at the end of a long road towards a comprehensive energy policy. I, too, want to thank all of those who worked so tirelessly on the legislation that helped make this momentous achievement possible. I think it was nearly 7 weeks that we have been on this bill. We have lost a little track of time.

Indeed, the staffs of both the majority and the minority of the Energy Committee have done a tremendous job, and we owe them a debt of thanks. I think we have had over 400 amendments we have reviewed and dispensed with over the course of this period of time.

I, of course, thank my own team for their dedication and work. To those on the other side, I thank them as well for their work, their cooperation, their professionalism, and that of the professional staff. They can be very proud of their efforts.

I am appreciative of my relationship with Senator BINGAMAN and his commitment to proceed with this bill. He has truly proceeded as a gentleman during the debate.

I think the recognition of Senator REID is most noteworthy because Senator REID has been very cooperative in moving this process along, and Senator DASCHLE, without his overall support and commitment to stay with the bill, the bill may have been pulled at previous times or anywhere along the way. That was not the case. I think we both recognize that this bill came about in a rather unusual manner, but I think we worked diligently through the amendment process to come up with something of which we can be proud.

So I congratulate everyone on a job well done. I think it is fair to say that the passage of this bill culminates my almost 22 years in the Senate. It is not all I had wished for, but, by the same token, the glass is either half full or half empty. Today, as far as the Senator from Alaska is concerned, it is a little more than half full. Around here sometimes those are pretty good odds.

We did get the gas line provision in; we got a heavy oil provision, both of which are very important for my State as well. So as we look to the conference and the conferees, we look to proceeding with the work ahead.

I also thank the Republican leader, who has been with us in this entire matter. Senator LOTT, at the beginning of the 107th Congress, declared that getting an energy bill passed would be one of the Republicans' top five priorities. He stood by us side by side at the extended press conferences that we have had for over a year. He has always been supportive. Once the energy bill came to the floor this year, the leader established an energy task force and held daily meetings directing our efforts each morning at 9 a.m. I am not sure where we will go at 9 a.m., we are so programmed.

He promised, although we had reservations, it was our ticket to conference and we would work to improve it on the floor and get to conference. That is what has happened. Now, hopefully, the report will be forthcoming and we will get a bill to the President. We thank Senator LOTT for his leadership.

We made significant progress in many aspects. They speak for themselves: CAFE, electricity, renewables, and so forth.

I recognize the efforts of our Commander in Chief, President George W. Bush. Today is a great victory for George W. Bush and his programs. We all recognize the world is a different place today than it was when the effort started more than a year ago. We have seen the tragic events that reshaped our national focus. But we underscore the need for a national energy policy. Now more than ever we need an energy policy with solutions, solutions that begin at home.

The administration's national energy policy has served as a legislative blueprint for the energy debate that has taken place in the Congress. This is what we have had. We have had a committee process more or less on the floor of the Senate. We have made it work. Between the House-passed H.R. 4 and the Senate bill, nearly every one of the President's initiatives have been adopted. The President has been a true leader on this issue. Today marks a great victory for him. I am pleased to have been a part of this success.

Our work is not done. There is more to do. The Senate goes into conference with NASA programs dealing with ethanol, renewable portfolio standards, the Alaska gas issue, electricity, climate change, and ANWR is in the House bill. These provisions will have to be worked out in what will likely be a very difficult conference. We are up to the challenge and we look forward to working with our House Members and Chairman TAUZIN. I believe the House leadership and the administration certainly are up to it. Working with our colleagues on the other side, I think we can get a bill to the President this year.

In closing, remember, we must get a plan to the President not because it is the President's legislation or his priority, and not because it is the Senate's legislation or the Senate's priority, but because it is the people's priority. That is our obligation—reliable affordable energy supply that powers this Nation. It is up to us to deliver this comprehensive bill. Without such a stable energy supply, our security is threatened, whether it is economic security, personal security at home, at work, or our national security on the world stage. Energy means security.

I thank the staff director, Brian Malnak, for his tireless work; Jim Beirne, chief counsel; Bryan Hannegan, staff scientist. I thank staff assistants Dan Kish, Christine Drager, Mike Merge, Howard Useem, Colleen Deegan, David Woodruff, Joe Brenckle, Frank Gladics, Jack Phelps, Jim O'Toole, Josh Bowlen, Julia Gray, Shane Perkins, Jared Stubbs, Macy Bell, and Dick Bouts; our personal office staff: Alexander Polinsky, Joel Gilbertson, Chuck Kleeschulte, Charles Freeman, Isaac Edwards, Chris Eyler, Kristin Daimler, Julie Teer, Sarah Berk,

Carrie Lehman, and Jerry Ritter. They have done a magnificent job.

If I left anybody off the payroll, I apologize.

I congratulate my good friend, Senator BINGAMAN, and Senator REID for making this possible.

The PRESIDING OFFICER. The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators allowed to speak for a period not to exceed 5 minutes each, with the exception of Senator BIDEN, who wishes to speak for 20 minutes.

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

The Senator from Delaware.

SAUDI ARABIA

Mr. BIDEN. Madam President, today the Crown Prince of Saudi Arabia, Prince Abdullah, met with President Bush in Crawford, TX. Based on the reports from that meeting, there were several items on the agenda, one of which was the conflict between the Israelis and Palestinians, and the other was the nature of the Saudi-U.S. bilateral relationship.

A report this morning in the New York Times said that the Crown Prince intended to deliver a ''blunt message'' to President Bush. Apparently, a Saudi official indicated after that meeting that oil would not be used as a weapon. Earlier, an unnamed Saudi official said that we, the United States, may face a ''strategic debacle'' unless we alter our relationship with Israel.

There is nothing wrong with blunt messages and blunt talk between friends. I am confident the President of the United States was equally blunt in the message he delivered. No doubt the Crown Prince discussed ways to advance his initiative with regard to Israel, a breakthrough that I publicly stated several times in recent weeks has not been fully appreciated by the world.

The Saudis had endorsed unanimously at the Arab League meeting last month in Beirut a plan that holds out hope for normal peaceful relations between Arab States and Israel. However, laying down that plan is not enough. It is time for more mature leadership.

We have been asked by the rest of the world and the Crown Prince to take an active role in supporting this plan. That is fine. However, I add, I hope the President discussed what active role the Saudis should take in dealing with peace in the Middle East. When the Crown Prince goes home, what concrete steps will he take to move the process forward, to create a new environment that builds trust and hope for a political settlement?

I am troubled by the apparent disconnect between the initiatives for peace taken by the Crown Prince and his nation and the contradictory behavior that is prevalent in Saudi Arabia and its policies. For example, in March the Saudi newspaper, Al-Riyadh, carried a vile, anti-Semitic article by someone claiming to be a professor. The article resurrected the centuries-old blood libel that civilized people would have thought was a thing of the past. This Saudi professor, in a leading Saudi newspaper, wrote for the Jewish holidays: ''Blood must be taken from a non-Jew, dried, and mixed with dough to make pastries.'' It goes on to say that using human blood in pastries was a ''well-established fact historically and legally throughout the history of mankind and that this was one of the main reasons for the persecution of Jews and the exile of Jews in Europe and Asia at different times.''

Finally, the article says: ''The needles enter the body extremely slowly causing immense pain that gives the Jewish vampires extreme pleasure and they closely monitor this bloodletting in detail with pleasure and enjoyment that is beyond comprehension.''

That is printed in a leading Saudi newspaper. The editor of that paper says that he was out of town when this article appeared, and later wrote that it was unworthy of publication.

Forgive me if I have a hard time believing that the article simply slipped through the cracks and that it was a fluke. I can believe many things about Saudi Arabia, but freedom of the press is not one of them. This article was published because no one who saw it believed that it contained anything offensive or untrue.

Imagine the outrage in Riyadh, in Cairo, in Amman, in the United Nations, and elsewhere if a Jewish professor published an article in an American paper saying that Muslim holiday feasts were prepared with the blood of ritualistically sacrificed Jews? Can anyone imagine what the Saudis would expect of the President of the United States, what the Saudis and the rest of the civilized world would rightly expect of all United States Senators who had nothing to do with it being published, but saw it published? The civilized world would demand of us, as they would have a right to, that we, the leaders of this country, stand up one at a time and disavow these vile, vile, vile diatribes.

What did people expect of us, and what did our President do, when a group of mostly Saudi citizens killed thousands of Americans on the 11th? The President did the right thing. He stood up and he said: This is not about Saudi Arabia, this is not about Muslims. He did the right thing.

I wonder what would have happened had it been the reverse. I wonder what would happen.

It is time for some mature leadership here. It is not enough just to lay down a good plan—and it is a good plan the Saudi Crown Prince laid down and which was adopted in Beirut. What would the Saudis expect us to say, though, were the roles reversed? What action would they demand of the President if in fact such vile lies were printed about Muslims and Saudis in an American paper? And what would the rest of the world have us say about such slander, in a country where there is freedom of the press, the United States?

Another example of this disconnect that baffles me is the recent telethon, ordered by King Fahd, which, according to press reports, raised over $85 million for families of so-called Palestinian martyrs. According to the Saudi Government, these people are defined as people ''victimized by Israeli terror and violence.'' But in the common parlance of the region, this term often refers to suicide bombers.

In the aftermath of September 11, in which 15 Saudis engaged in the most deadly suicide attacks in history, one would hope the Saudi Government might think twice before offering financial incentives for so-called martyrdom.

Imagine if the President of the United States and the Members of the Congress contributed to a telethon for someone who walked into a hotel in Riyadh and killed 100 Muslims. What would we say? What would we be expected to say? What would we think? What would happen if the President of the United States said: We condemn it, but we understand the frustration of the Saudi people, in having no democracy? We understand the frustration of the Jewish people, being victims of suicide bombing? It would be an outrage, an outrage. And the whole world would say: Where is the moral leadership of the United States?

But the Saudi support for the cult of martyrdom is not restricted to offering financial incentives. Recently the Saudi Ambassador to the United Kingdom wrote a poem entitled ''The Martyrs.'' The poem appeared in Arabic language newspapers and praised Palestinian suicide bombers, particularly a young deranged Palestinian woman from a refugee camp who killed herself and two Israelis on March 29. The Ambassador refers to her as ''the bride of loftiness.''

This is written by the Saudi Ambassador to the United Kingdom.

> She embraces death with a smile
> while the leaders are running away from death . . .

He goes on to say:

> We complained to the idols of a white house whose heart is filled with darkness.

Given the opportunity to renounce this poem, a Saudi spokesman said on United States television:

> The ambassador is a very well known poet . . . he was expressing the anger and frustration people feel.

Give me a break. That is not good enough. I personally met with this spokesman, who is a fine man. I expected more from a man as educated and sophisticated as Mr. Al-Jubeir. If an American diplomat wrote a poem—

if the Ambassador from the United States to England wrote a poem extolling terrorism and attacking the leader of an ally, the President of the United States would have his or her head on a platter the next day. They would be fired.

What would happen if an ambassador of the United States to another great country wrote a poem that extolled the virtues of some Saudi citizen who—like bin Laden—attempted to assassinate or was engaged in a plot to do harm to the royal family? What would the Saudis expect of us? What would the Saudis, or any civilized nation, expect the United States President to do? They would expect him to do exactly what he would do: Fire the person on the spot, and vocally, in more than one language, disavow the poetry.

Since September 11, we have become all too familiar with the term ''madrassa,'' a term probably few had ever heard of in the United States. We have learned that madrassas are religious schools. We have learned the extent to which funds from Saudi Arabia have supported madrassas, over 7,000 of them in Pakistan and in Afghanistan. We have learned that many madrassas indoctrinate children with distorted and hateful ideas.

But now we have learned that the problem with education is not simply outside of Saudi Arabian borders, but within the kingdom itself. According to an article in last October's New York Times, 10th grade textbooks in Saudi Arabia warn students to ''consider the infidel their enemy.''

Saudis claim such quotes are taken out of context, but in what context is religious prejudice acceptable?

Of course, hateful diatribes and words of incitement also are found in Palestinian textbooks.

While Arafat is talking about peace in Oslo, the textbooks in the West Bank talk about ''the hated Jew.'' And they have long been accompanied by schoolroom maps in the Middle East that pointedly do not show, even on a map, Israel as a state. When our Saudi friends argue their support and funding for Palestinian causes is for humanitarian and educational purposes, I think it is fair to ask why they continue to turn a blind eye toward this fomenting of hate that exists in their region and their country.

I mention these examples to illustrate why there is a disconnect when we hear Saudi leaders talk of making peace with Israel.

Peace will not happen by itself. It has to be nurtured. Certainly those Arab nations we put in the moderate camp ought to prepare their people for the ''normal, peaceful relations'' they espoused in Beirut. If the Crown Prince means what he says about normal, peaceful relations with Israel—and I believe he does—then it is time for his government to prepare Saudi Arabia and the rest of the Arab world for this new day. No responsible leaders want to see bloodshed continue in the Middle East. We all want for it to end immediately. All of us would like to see a peaceful settlement. To make it happen, everyone—everyone—must shoulder responsibility.

It is time for big nations and serious leaders to stand up, to stand up and speak the truth. It is time for nations with the ability to directly influence events to exercise simply mature leadership.

I am not expecting the Saudis to all of a sudden take a pro-Israeli position. But I am expecting, I do demand of them as a civilized nation and a mature country, to do the right thing.

The United States must do its part, too. I have urged the administration to increase its involvement, not only in resolving the current crisis but also convening an international peace conference that would move the parties quickly to a political solution or at least provide a political horizon.

The Arab world must demonstrate mature leadership as well. It cannot simply demand that the United States abandon Israel, something we will never do.

Let me say that again: Something we will never do. Over my dead physical political body will we ever abandon Israel. But that does not mean we believe everything Israel does is right. It does mean, though, we will fight for Israel's right to exist within secure borders.

Mature leadership means taking risks and confronting those forces that hinder progress—not abetting those forces.

Mature leadership means condemning terrorism—not extolling the virtues of ''martyrdom.''

Mature leadership means halting the flow of funds to terrorists—not providing financial incentives for more terror.

Mature leadership means creating an educational system that provides the foundation for future progress—not text and textbooks that promote religious bigotry.

Mature leadership means being responsive to the legitimate demands of one's citizen for political openness and transparency—not stifling dissent and exporting your problems elsewhere.

Mature leadership means sitting down with the Israelis and talking peace—not treating them as pariahs.

I find it fascinating that the President was criticized for authorizing and directing the Secretary of State to sit down with the person who many Israelis consider a pariah and who many of us consider a pariah—Yasser Arafat. The Saudis thought that was essential. Why will they not sit down? Why will they not sit down with a man who is the elected leader of Israel, regardless of whether or not they think on the West Bank he is a pariah as many Israelis and Americans think is the case with Mr. Arafat?

The President has shown mature leadership. I may disagree with his approach, but why is it expected of us and not of them?

As the birthplace of Islam and the land of the holiest Muslim sites, Saudi Arabia has a critical role to play in resolving one of the most intractable conflicts of our time.

This is an opportunity for the Saudi Royal Family to make a real contribution to peace. They have taken the first steps with bold action that holds out hope for peace as they presented their peace plan.

Now let them take the next step of mature, consistent leadership. Let them denounce the Palestinian leadership that uses terror to gain political leverage. Let them denounce hateful language. Let them denounce the incitement to violence in textbooks and in the media.

I hope they will take the next step so the Saudi initiative will not become just another missed opportunity—an interesting footnote in history.

I hope our relationship with the Saudis can improve. I hope the Saudi Arabian citizens can begin to enjoy the freedom they deserve.

But these things can only occur with farsighted, mature leadership.

There has never been a time when we have needed such leadership more than it is needed now. I hope that kind of leadership will enable our two countries to move forward together to achieve progress and peace—not just for the Israelis and Palestinians but for all the people of the Middle East.

I urge the administration to increase its involvement—not only in the present circumstance but beyond.

Let us be honest. This is a historic opportunity. The Saudis have made a significant proposal. I beg them, do not squander the opportunity to be remembered for the century as the party and the force that was the catalyst for bringing an end to the suffering of the people in the Palestinian-Israeli conflict.

I yield the floor.

TRIBUTE TO BRIGADIER GENERAL DAN L. LOCKER, COMMANDER, 81ST MEDICAL GROUP AND LEAD AGENT, TRICARE REGION IV

Mr. LOTT. Mr. President, I would like to take a moment today to recognize one of the finest officers in the U.S. Air Force, Brigadier General Dan L. Locker. On July 31, 2002, General Locker will retire from the Air Force and his positions as Commander of the 81st Medical Group, Keesler Medical Center, Keesler Air Force Base, MS, and Lead Agent for Department of Defense TRICARE Region IV. During his time at Keesler Air Force Base, General Locker has exemplified the Air Force core values of integrity, service before self, and excellence in all endeavors. Many Members and staff have enjoyed the opportunity to meet with him on a variety of Department of Defense health care issues and have come to appreciate his many talents. Today it is my privilege to recognize some of Dan's many accomplishments since he

entered the military 30 years ago, and to commend the superb service he provided the Air Force, the Congress, and our Nation.

Dan Locker was commissioned in the Air Force Reserve in 1970 through the Health Professions Scholarship Program. A proud Texan, he completed his bachelor's degree in biology at Southwest Texas State College in 1967. He entered active duty in 1972, and received his Doctor of Medicine degree in 1973 from the University of Texas Medical School in San Antonio. He then completed residencies in family practice at Scott Air Force Base, IL, and general surgery at Keesler Air Force Base, MS. An active chief flight surgeon, General Locker has logged more than 1,000 hours of flight time in numerous military aircraft, including 21 combat missions and 25 combat hours.

From early in his career, General Locker's exceptional leadership skills were always evident to both superiors and subordinates as he repeatedly proved himself in numerous select command positions. He was the Chief of Surgical Services in his first post-residency assignment at Mountain Home Air Force Base, ID. From there, he went overseas to serve as Chief of General Surgery and Director of U.S. Air Forces in Europe Flying Ambulance Surgical Trauma teams in Wiesbaden, Germany. While in Germany, he also was the military consultant to the Air Force Surgeon General for general surgery. Next, he moved to the Royal Air Force Lakenheath, England, where he served as deputy commander for hospital services. Then it was back to Texas to command, first, the 96th Strategic Hospital at Dyess Air Force Base, and then the 82nd Medical Group at Sheppard Air Force Base. After proving his staff proficiency as Director of Medical Service Officer Management at the Air Force Military Personnel Center at Randolph Air Force Base, TX, then-Colonel Locker, was summoned to be the Command Surgeon at Headquarters, U.S. Air Forces in Europe in Ramstein Air Base, Germany. While in that position, he was responsible for management, resources, and oversight of all health care provided at 12 Air Force clinics, hospitals, and medical centers throughout Europe.

In 1997, Dan Locker was promoted to brigadier general, and was selected for his current high-profile position as commander of the second largest medical center in the Air Force at Keesler Air Force Base in the great State of Mississippi. General Locker took Keesler Medical Center to new heights, earning the 81st Medical Group the Air Force Outstanding Unit Award, the Department of Defense TRICARE Customer Service Award, and the TRICARE Access to Care Award. The TRICARE honors resulted in a $100,000 cash award, that was used to improve the quality of life and benefit the more than 2,000 health care professionals of the 81st Medical Group at Keesler. General Locker has worked diligently to hone the military professionalism of the ''Combat Medics'' at Keesler Medical Center, which is responsible for the direct delivery of health care to more than 50,000 patients in the Keesler area, and provides referral and consultative services to an additional 605,000 beneficiaries in a 5–State region.

As Lead Agent for TRICARE Region IV, General Locker is responsible for the direction of all managed health care activities at 23 military treatment facilities throughout all of Mississippi, Alabama, Tennessee, and parts of Louisiana and Florida. In addition, through a $4 billion contract with Humana Military Healthcare Services, he is responsible for the provision of care to all military beneficiaries in the region. The Managed Care Support Contract relationship with Humana was so strong that both parties were recognized by the National Managed Health Care Congress with the 2001 AstraZeneca Partnership Award for improving the delivery of health care throughout the Gulf-South Region.

A dynamic and skilled lecturer, General Locker has delivered presentations around the world on a variety of clinical and technological health care issues to a broad range of audiences, both military and civilian. Still active in his surgical practice, he spends a week each winter, leading a team on a humanitarian mission trip to Mexico to help provide much-needed care to rural and under-served patients. Just last week, he was presented the prestigious Excalibur Award by the Society of Air Force Clinical Surgeons for demonstrating the highest personal dedication, surgical competence, and providing leadership and vision to further advance the field of surgery.

I offer my congratulations to Dan, his wife, Cynthia, daughters, Valerie and Rachel, and son, Ryan. The Congress and the country applaud the selfless commitment his entire family has made to the Nation in supporting his military career.

I know I speak for all of my colleagues in expressing my heartfelt appreciation to General Locker. He is a credit to both the Air Force and the United States. We wish our friend the best of luck in his retirement and we look forward to working with General Locker in his next career.

TRIBUTE TO BRIGADIER GENERAL ROOSEVELT ''TED'' MERCER, JR., COMMANDANT, JOINT FORCES STAFF COLLEGE

Mr. LOTT. Mr. President, I would like to take a moment today to recognize one of the finest officers in the United States Air Force, Brigadier General Roosevelt ''Ted'' Mercer, Jr. On May 9, 2002, General Mercer will become the Commandant of Joint Forces Staff College at the National Defense University in Norfolk, VA. He will be leaving the job as Commander of the 81st Training Wing at Keesler AFB MS, a position he has held and executed with great pride, leadership, and honor. During his time at Keesler, as Commander of the 81st Training Wing, General Mercer personified the Air Force core values of integrity, service before self, and excellence in all things. Many Members and staff enjoyed the opportunity to meet with him on a variety of Air Force issues and came to appreciate his many talents. Today it is my privilege to recognize some of Ted's many accomplishments since he entered the military 27 years ago, and to commend the superb service he provided the Air Force, the Congress and our Nation.

Ted Mercer entered the Air Force through the Reserve Officer Training Corps program at University of Puget Sound in Tacoma, Washington. While there, he completed his bachelor's degree in urban planning in 1975, as well as being a distinguished graduate of the university's ROTC program. Upon graduation, he was assigned to Vandenberg Air Force Base in California, where he became proficient in Titan II missile combat crew operations, so much so that by 1980 he became an instructor in missile combat crew operations at Vandenberg.

From early in his career, General Mercer's exceptional leadership skills were always evident to both superiors and subordinates as he repeatedly proved himself in numerous select command positions. He was the Commander of the 447th Strategic Missile Squadron at Grand Forks Air Force Base, North Dakota; Commander of the 45th Logistics Group at Patrick Air Force Base, Florida; and at Minot Air Force Base, North Dakota he was Commander of the 91st Operations Group. In June 1998, he assumed command of the 30th Space Wing at Vandenberg Air Force Base, California. As I've stated earlier, he superbly led the 81st Training Wing at Keesler Air Force Base, Mississippi from September 2000 until May 2002.

Ted Mercer also has excelled in a variety of key staff assignments. These include serving as Deputy Director of Operations, Headquarters U.S. Space Command at Peterson Air Force Base, Colorado; Vice Director of Plans, Directorate of Plans, Headquarters U.S. Space Command at Peterson Air Force Base, Colorado; Chief, Nuclear Division, Directorate of Plans and Policy, Headquarters U.S. European Command, Stuttgart, Germany; and Executive Officer, Directorate of Personnel Plans, Deputy Chief of Staff for Personnel, Headquarters U.S. Air Force, Washington DC. General Mercer also served as Chief of Congressional Affairs, Deputy Chief of Staff for Personnel, Headquarters U.S. Air Force in Washington DC, and has been awarded a Defense Superior Service Medal and Legion of Merit among other decorations.

We were all pleased to see General Mercer selected as Commandant of the Joint Forces Staff College at the National Defense University in Norfolk, VA. I offer my congratulations to him,

his wife, Mike, and daughter, Sidnee, on this new assignment. The Congress and the country applaud the selfless commitment his entire family has made to the Nation in supporting his military career.

I know I speak for all of my colleagues in expressing my heartfelt appreciation to General Ted Mercer. He is a credit to both the Air Force and the United States of America. We wish our friend the best of luck in his new command.

ARTHUR M. SCHLESINGER, JR. ON AMERICAN DEMOCRACY

Mr. KENNEDY. Mr. President, few individuals have made a greater contribution to the study of American history than Professor Arthur M. Schlesinger, Jr.

Arthur's been a pre-eminent historian for over half a century, ever since 1946, when he won the Pulitzer Prize at the age of 28, for his book ''The Age of Jackson.''

As Oscar Wilde once said—anybody can make history but only a truly great man can write history. And Arthur Schlesinger has written about history with unsurpassed eloquence, and he's shaped that history with his unsurpassed wisdom and scholarship. In so many ways, Arthur Schlesinger represents the best of the liberal and progressive ideal in the 20th century.

Arthur Schlesinger continues to represent these ideals in the 21st century, and I believe that his article on the 2000 presidential election published in last month's issue of The American Prospect will be of interest to all of us in Congress. I ask unanimous consent that it may be printed in the RECORD.

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

[From the American Prospect, Mar. 25, 2002]

NOT THE PEOPLE'S CHOICE

(By Arthur M. Schlesinger, Jr.)

The true significance of the disputed 2000 election has thus far escaped public attention. This was an election that made the loser of the popular vote the president of the United States. But that astounding fact has been obscured: first by the flood of electoral complaints about deceptive ballots, hanging chads, and so on in Florida; then by the political astuteness of the court-appointed president in behaving as if he had won the White House by a landslide; and now by the effect of September 11 in presidentializing George W. Bush and giving him commanding popularity in the polls.

''The fundamental maxim of republican government,'' observed Alexander Hamilton in the 22d Federalist, ''requires that the sense of the majority should prevail.'' A reasonable deduction from Hamilton's premise is that the presidential candidate who wins the most votes in an election should also win the election. That quite the opposite can happen is surely the great anomaly in the American democratic order.

Yet the National Commission on Federal Election Reform, a body appointed in the wake of the 2000 election and co-chaired (honorarily) by former Presidents Gerald Ford and Jimmy Carter, virtually ignored it. Last August, in a report optimistically entitled To Assure Pride and Confidence in the Electoral Process, the commission concluded that it had satisfactorily addressed ''most of the problems that came into national view'' in 2000. But nothing in the ponderous 80-page document addressed the most fundamental problem that came into national view: the constitutional anomaly that permits the people's choice to be refused the presidency.

Little consumed more time during our nation's Constitutional Convention than debate over the mode of choosing the chief executive. The framers, determined to ensure the separation of powers, rejected the proposal that Congress elect the president. Both James Madison and James Wilson, the ''fathers'' of the Constitution, argued for direct election by the people, but the convention, fearing the parochialism of uninformed voters, also rejected that plan. In the end, the framers agree on the novel device of an electoral college. Each state would appoint electors equal in number to its representation in Congress. The electors would then vote for two persons. The one receiving a majority of electoral votes would then become president; the runner-up, vice president. And in a key sentence, the Constitution stipulated that of these two persons at least one should not be from the same state as the electors.

The convention expected the electors to be cosmopolitans who would know, or know of, eminences in other states. But this does not mean that they were created as free agents authorized to routinely ignore or invalidate the choice of the voters. The electors, said John Clopton, a Virginia congressman, are the ''organs . . . acting from a certain and unquestioned knowledge of the choice of the people, by whom they themselves were appointed, and under immediate responsibility to them.''

Madison summed it up when the convention finally adopted the electoral college: ''The president is now to be elected by the people.'' The president, he assured the Virginia ratifying convention, would be ''the choice of the people at large.'' In the First Congress, he described the president as appointed ''by the suffrage of three million people.''

''It was desirable,'' Alexander Hamilton wrote in the 68th Federalist, ''that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided.'' As Lucius Wilmerding, Jr., concluded in his magistral study of the electoral college: ''The Electors were never meant to choose the President but only to pronounce the votes of the people.''

Even with such a limited function, however, the electoral college has shaped the contours of American politics and thus captured the attention of politicians. With the ratification of the 12th Amendment in 1804, electors were required to vote separately for president and vice president, a change that virtually guaranteed that both would be of the same party. Though unknown to the Constitution and deplored by the framers, political parties were remolding presidential elections. By 1836 every state except South Carolina had decided to cast its votes as a unit—winner take all, no matter how narrow the margin. This decision minimized the power of third parties and created a solid foundation for a two-party system.

''The mode of appointment of the Chief Magistrate [President] of the United States,'' wrote Hamilton in the 68th Federalist, ''is almost the only part of the system, of any consequence, which has escaped without severe censure.'' This may have been true when Hamilton wrote in 1788; it was definitely not true thereafter. According to the Congressional Research Service, legislators since the First Congress have offered more than a thousand proposals to alter the mode of choosing presidents.

No legislator has advocated the election of the president by Congress. Some have advocated modifications in the electoral college—to change the electoral units from states to congressional districts, for example, or to require a proportional division of electoral votes. In the 1950s, the latter approach received considerable congressional favor in a plan proposed by Senator Henry Cabot Lodge, Jr., and Representative Ed Gossett. The Lodge-Gossett amendment would have ended the winner-take-all electoral system and divided each state's electoral vote according to the popular vote. In 1950 the Senate endorsed the amendment, but the House turned it down. Five years later, Senator Estes Kefauver revived the Lodge-Gossett plan and won the backing of the Senate Judiciary Committee. A thoughtful debate ensued, with Senators John F. Kennedy and Paul H. Douglas leading the opposition and defeating the amendment.

Neither the district plan nor the proportionate plan would prevent a popular-vote loser from winning the White House. To correct this great anomaly of the Constitution, many have advocated the abolition of the electoral college and its replacement by direct popular elections. The first ''minority'' president was John Quincy Adams. In the 1824 election, Andrew Jackson led in both popular and electoral votes; but with four candidates dividing the electoral vote, he failed to win an electoral-college majority. The Constitution provides that if no candidate has a majority, the House of Representatives must choose among the top three. Speaker of the House Henry Clay, who came in fourth, threw his support to Adams, thereby making him president. When Adams then made Clay his secretary of state, Jacksonian cries of ''corrupt bargain'' filled the air for the next four years and helped Jackson win the electoral majority in 1828.

''To the people belongs the right of electing their Chief Magistrate,'' Jackson told Congress in 1829. ''The first principle of our system,'' he said, is ''that the majority is to govern.'' He asked for the removal of all ''intermediate'' agencies preventing a ''fair expression of the will of the majority.'' And in a tacit verdict on Adams's failed administration, Jackson added: ''A President elected by a minority can not enjoy the confidence necessary to the successful discharge of his duties.''

History bears out Jackson's point. The next two minority presidents—Rutherford B. Hayes in 1877 and Benjamin Harrison in 1889—had, like Adams, ineffectual administrations. All suffered setbacks in their midterm congressional elections. None won a second term in the White House.

The most recent president to propose a direct-election amendment was Jimmy Carter in 1997. The amendment, he said, would ''ensure that the candidate chosen by the votes actually becomes President. Under the Electoral College, it is always possible that the winner of the popular vote will not be elected.'' This had already happened, Carter said, in 1824, 1876, and 1888.

Actually, Carter placed too much blame on the electoral system. Neither J.Q. Adams in 1824 nor Hayes in 1876 owed his elevation to the electoral college. The House of Representatives, as noted, elected Adams. Hayes's anointment was more complicated.

In 1876, Samuel J. Tilden, the Democratic candidate, won the popular vote, and it appeared that he had won the electoral vote too. But the Confederate states were still under military occupation, and electoral boards in Florida, Louisiana, and South Carolina disqualified enough Democratic ballots to give Hayes, the Republican candidate, the electoral majority.

The Republicans controlled the Senate; the Democrats, the House. Which body would count the electoral votes? To resolve the deadlock, Congress appointed an electoral commission. By an 8–7 party-line vote, the commission gave all the disputed votes to Hayes. This was a supreme election swindle. But it was the rigged electoral commission, not the electoral college, that denied the popular-vote winner the presidency.

In 1888 the electoral college did deprive the popular-vote winner, Democrat Grover Cleveland, of victory. But 1888 was a clouded election. Neither candidate received a majority, and Cleveland's margin was only 100,000 votes. Moreover, the claim was made, and was widely accepted at the time and by scholars since, that white election officials in the South banned perhaps 300,000 black Republicans from the polls. The installation of a minority president in 1889 took place without serious protest.

The Republic later went through several other elections in which a small shift of votes would have given the popular-vote loser an electoral-college victory. In 1916, if Charles Evans Hughes had gained 4,000 votes in California, he would have won the electoral-college majority, though he lost the popular vote to Woodrow Wilson by more than half a million. In 1948, a shift of fewer than 30,000 votes in three states would have given Thomas E. Dewey the electoral-college majority, though he ran more than two million votes behind Harry Truman. In 1976, a shift of 8,000 votes in two states would have kept President Gerald Ford in office, though he ran more than a million and a half votes behind Jimmy Carter.

Over the last half-century, many other eminent politicos and organizations have also advocated direct popular elections: Presidents Richard Nixon and Gerald Ford; Vice Presidents Alben Barkley and Hubert Humphrey; Senators Robert A. Taft, Mike Mansfield, Edward Kennedy, Henry Jackson, Robert Dole, Howard Baker, and Everett Dirksen; the American Bar Association, the League of Women Voters, the AFL–CIO, and the U.S. Chamber of Commerce. Polls have shown overwhelming public support for direct elections.

In the late 1960s, the drive for a direct-election amendment achieved a certain momentum. Led by Senator Birch Bayh of Indiana, an inveterate and persuasive constitutional reformer, the campaign was fueled by the fear that Governor George Wallace of Alabama might win enough electoral votes in 1968 to throw the election into the House of Representatives. In May 1968, a Gallup poll recorded 66 percent of the U.S. public in favor of direct election—and in November of that year, an astonishing 80 percent. But Wallace's 46 electoral votes in 1968 were not enough to deny Nixon a majority, and complacency soon took over. ''The decline in one-party states,'' a Brookings Institution study concluded in 1970, ''has made it far less likely today that the runner-up in popular votes will be elected President.''

Because the danger of electoral-college misfire seemed academic, abolition of the electoral college again became a low-priority issue. Each state retained the constitutional right to appoint its electors ''in such manner as the legislature thereof directs.'' And all but two states, Maine and Nebraska, kept the unit rule.

Then came the election of 2000. For the fourth time in American history, the winner of the popular vote was refused the presidency. And Albert Gore, Jr., had won the popular vote not by Grover Cleveland's dubious 100,000 but by more than half a million. Another nearly three million votes had gone to the third-party candidate Ralph Nader, making the victor, George W. Bush, more than ever a minority president.

Nor was Bush's victory in the electoral college unclouded by doubt. The electoral vote turned on a single state, Florida. Five members of the Supreme Court, forsaking their usual deference to state sovereignty, stopped the Florida recount and thereby made Bush president. Critics wondered: if the facts had been the same but the candidates reversed, with Bush winning the popular vote (as indeed observers had rather expected) and Gore hoping to win the electoral vote, would the gang of five have found the same legal arguments to elect Gore that they used to elect Bush?

I expected an explosion of public outrage over the rejection of the people's choice. But there was surprisingly little in the way of outcry. It is hard to image such acquiescence in a popular-vote-loser presidency if the popular-vote winner had been, say, Adlai Stevenson or John F. Kennedy or Ronald Reagan. Such leaders attracted do-or-die supporters, voters who cared intensely about them and who not only would have questioned the result but would have been ardent in pursuit of fundamental reform. After a disappointing campaign, Vice President Gore simply did not excite the same impassioned commitment.

Yet surely the 2000 election put the Republic in an intolerable predicament—intolerable because the result contravened the theory of democracy. Many expected that the election would resurrect the movement for direct election of presidents. Since direct elections have obvious democratic plausibility and since few Americans understand the electoral college anyway, its abolition seems a logical remedy.

The resurrection has not taken place. Constitutional reformers seem intimidated by the argument that a direct-election amendment would antagonize small-population states and therefore could not be ratified. It would necessarily eliminate the special advantage conferred on small states by the two electoral votes handed to all states regardless of population. Small-state opposition, it is claimed, would make it impossible to collect the two-thirds of Congress and the three-fourths of the states required for ratification.

This is an odd argument, because most political analysts are convinced that the electoral college in fact benefits large states, not small ones. Far from being hurt by direct elections, small states, they say, would benefit from them. The idea that ''the present electoral-college preserves the power of the small states,'' write Lawrence D. Longley and Alan G. Braun in The Politics of Electoral Reform, ''. . . simply is not the case.'' The electoral-college system ''benefits large states, urban interests, white minorities, and/or black voters.'' So, too, a Brookings Institution report: ''For several decades liberal, urban Democrats and progressive, urban-suburban Republicans have tended to dominate presidential politics; they would lose influence under the direct-vote plan.''

Racial minorities holding the balance of power in large states agree. ''Take away the electoral college,'' said Vernon Jordan as president of the Urban League, ''and the importance of being black melts away. Blacks, instead of being crucial to victory in major states, simply become 10 percent of the electorate, with reduced impact.''

The debate over whom direct elections would benefit has been long, wearisome, contradictory, and inconclusive. Even computer calculations are of limited use, since they assume a static political culture. They do not take into account, nor can they predict, the changes wrought in voter dynamics by candidates, issues, and events.

As Senator John Kennedy said during the Lodge-Gossett debate: ''It is not only the unit vote for the Presidency we are talking about, but a whole solar system of governmental power. If it is proposed to change the balance of power of one of the elements of the solar system,'' Kennedy observed, ''it is necessary to consider all the others. . . . What the effects of these various changes will be on the Federal system, the two-party system, the popular plurality system and the large-State-small-State checks and balances system, no one knows.''

Direct elections do, however, have the merit of correcting the great anomaly of the Constitution and providing an escape from the intolerable predicament. ''The electoral college method of electing a President of the United States,'' said the American Bar Association when an amendment was last seriously considered, ''is archaic, undemocratic, complex, ambiguous, indirect, and dangerous.'' In contrast, as Birch Bayh put it, ''direct popular election of the president is the only system that is truly democratic, truly equitable, and can truly reflect the will of the people.''

The direct-election plan meets the moral criteria of a democracy. It would elect the people's choice. It would ensure equal treatment of all votes. It would reduce the power of sectionalism in politics. It would reinvigorate party competition and combat voter apathy by giving parties the incentive to get out their votes in states that they have no hope of carrying.

The arguments for abolishing the electoral college are indeed powerful. But direct elections raise troubling problems of their own—especially their impact on the two-party system and on JFK's ''solar system of governmental power.''

In the nineteenth century, American parties inspired visiting Europeans with awe. Alexis de Tocqueville, in the 1830s, thought politics ''the only pleasure which an American knows.'' James Bryce, half a century later, was impressed by the ''military discipline'' of the parties. Voting statistics justified transtlantic admiration. In no presidential election between the Civil War and the end of the century did turnout fall below 70 percent of eligible voters.

The dutiful citizens of these high-turnout years did not rush to the polls out of uncontrollable excitement over the choices they were about to make. The dreary procession of presidential candidates moved Bryce to write his famous chapter in The American Commonwealth titled ''Why Great Men Are Not Chosen President.'' But the party was supremely effective as an agency of voter mobilization. Party loyalty was intense. People were as likely to switch parties as they were to switch churches. The great difference between then and now is the decay of the party as the organizing unit of American politics.

The modern history of parties has been the steady loss of the functions that gave them their classical role. Civil-service reform largely dried up the reservoir of patronage. Social legislation reduced the need for parties to succor the poor and helpless. Mass entertainment gave people more agreeable diversions than listening to political harangues. Party loyalty became tenuous; party identification, casual. Franklin D. Roosevelt observed in 1940: ''The growing independence of voters, after all, has been proved by the votes in every presidential election since my childhood—and the tendency, frankly, is on the increase.''

Since FDR's day, a fundamental transformation in the political environment has further undermined the shaky structure of American politics. Two electronic technologies—television and computerized polling—have had a devastating impact on the party system. The old system had three

tiers: the politican at one end, the voter at the other, and the party in between. The party's function was to negotiate between the politician and the voter, interpreting each to the other and providing the links that held the political process together.

The electronic revolution has substantially abolished this mediating role. Television presents politicians directly to the voters, who judge candidates far more on what the box shows them than on what the party organization tells them. Computerized polls present voters directly to the politicians, who judge the electorate far more on what the polls show them than on what the party organization tells them. The political party is left to wither on the vine.

The last half-century has been notable for the decrease in party identification, for the increase in independent voting, and for the number of independent presidential candidacies by fugitives from the major parties: Henry Wallace and Strom Thurmond in 1948, George Wallace in 1968, Eugene McCarthy in 1976, John Anderson in 1980, Ross Perot in 1992 and 1996, and Ralph Nader and Pat Buchanan in 2000.

The two-party system has been a source of stability; FDR called it ''one of the greatest methods of unification and of teaching people to think in common terms.'' The alternative is a slow, agonized descent into an era of what Walter Dean Burnham has termed ''politics without parties.'' Political adventurers might roam the countryside like Chinese warlords, building personal armies equipped with electronic technologies, conducting hostilities against various rival warlords, forming alliances with others, and, if they win elections, striving to govern through ad hoc coalitions. Accountability would fade away. Without the stabilizing influences of parties, American politics would grow angrier, wilder, and more irresponsible.

There are compelling reasons to believe that the abolition of state-by-state, winner-take-all electoral votes would hasten the disintegration of the party system. Minor parties have a dim future in the electoral college. Unless third parties have a solid regional base, like the Populists of 1892 or the Dixiecrats of 1948, they cannot hope to win electoral votes. Millard Fillmore, the Know-Nothing candidate in 1856, won 21.6 percent of the popular vote and only 2 percent of the electoral vote. In 1912, when Theodore Roosevelt's candidacy turned the Republicans into a third party, William Howard Taft carried 23 percent of the popular vote and only 1.5 percent of the electoral votes.

But direct elections, by enabling minor parties to accumulate votes from state to state—impossible in the electoral-college system—would give them a new role and a new influence. Direct-election advocates recognize that the proliferation of minor candidates and parties would drain votes away from the major parties. Most direct-election amendments therefore provide that if no candidate receives 40 percent of the vote the two top candidates would fight it out in a runoff election.

This procedure would offer potent incentives for radical zealots (Ralph Nader, for example), freelance media adventures (Pat Buchanan), eccentric billionaires (Ross Perot), and flamboyant characters (Jesse Ventura) to jump into presidential contests; incentives, too, to ''green'' parties, senior-citizen parties, nativist parties, right-to-life parties, pro-choice parties, anti-gun-control parties, homosexual parties, prohibition parties, and so on down the single-issue line.

Splinter parties would multiply not because they expected to win elections but because their accumulated vote would increase their bargaining power in the runoff. Their multiplication might well make runoffs the rule rather than the exception. And think of the finagling that would take place between the first and second rounds of a presidential election! Like J.Q. Adams in 1824, the victors would very likely find that they are a new target for ''corrupt bargains.''

Direct election would very likely bring to the White House candidates who do not get anywhere near a majority of the popular votes. The prospect would be a succession of 41 percent presidents or else a succession of double national elections. Moreover, the winner in the first round might often be beaten in the second round, depending on the deals the runoff candidates made with the splinter parties. This result would hardly strengthen the sense of legitimacy that the presidential election is supposed to provide. And I have yet to mention the problem, in close elections, of organizing a nationwide recount.

In short, direct elections promise a murky political future. They would further weaken the party system and further destabilize American politics. They would cure the intolerable predicament—but the cure might be worse than the disease.

Are we therefore stuck with the great anomaly of the Constitution? Is no remedy possible?

There is a simple and effective way to avoid the troubles promised by the direct-election plan and at the same time to prevent the popular-vote loser from being the electoral-vote winner: Keep the electoral college but award the popular vote winner a bonus of electoral votes. This is the ''national bonus'' plan proposed in 1978 by the Twentieth Century Fund Task Force on Reform of the Presidential Election Process. The task force included, among others, Richard Rovere and Jeanne Kirkpatrick. (And I must declare an interest: I was a member, too, and first proposed the bonus plan in The Wall Street Journal in 1977.)

Under the bonus plan, a national pool of 102 new electoral votes—two for each state and the District of Columbia—would be awarded to the winner of the popular vote. This national bonus would balance the existing state bonus—the two electoral votes already conferred by the Constitution on each state regardless of population. This reform would virtually guarantee that the popular-vote winner would also be the electoral-vote winner.

At the same time, by retaining state electoral votes and the unit rule, the plan would preserve both the constitutional and the practical role of the states in presidential elections. By insulating recounts, it would simplify the consequences of close elections. By discouraging multiplication of parties and candidates, the plan would protect the two-party system. By encouraging parties to maximize their vote in states that they have no chance of winning, it would reinvigorate state parties, stimulate turnout, and enhance voter equality. The national-bonus plan combines the advantages in the historic system with the assurance that the winner of the popular vote will win the election, and it would thus contribute to the vitality of federalism.

The national-bonus plan is a basic but contained reform. It would fit comfortably into the historic structure. It would vindicate ''the fundamental maxim of republican government . . . that the sense of the majority should prevail.'' It would make the American democracy live up to its democratic pretensions.

How many popular vote losers will we have to send to the White House before we finally democratize American democracy?

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH of Oregon. Mr. President, I speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

A terrible crime occurred September 14, 1998 in Hayward, CA. A woman in a gay and lesbian bar was verbally assaulted and threatened by two men. Donald R. Santos, 40, and Lance E. Alves, 45, were charged with making terrorist threats and interference of civil rights because of sexual orientation, in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.•

TAKE OUR DAUGHTERS TO WORK DAY

• Ms. LANDRIEU. Mr. President, as you walk the halls of the Senate today, you might have noticed many young and bright faces. Today we are celebrating the 10th anniversary of ''Take Our Daughters to Work Day.'' Senate HUTCHINSON and I have been pleased to oversee today's activities with our colleagues.

Over 11-million girls ages 9–15 are spending today with their parents, relatives, friends, neighbors and other mentors experiencing the wide range of careers the world has to offer.

Since 1993, 71-million young women—and yes, some young men, too—have participated in this outstanding program. According to a recent poll commissioned by the Ms. Foundation for Women, girls believe the program increased their interest in education, broadened their thinking about the future, and strengthened their relationship with their parents and other caring adults.

This morning's Senate activities began with a breakfast and a tour of the Senate floor for approximately 200 girls and their sponsors, many of them Senate staff members and assistants who wanted to share with their girls the excitement and challenges of working in our Nation's Capitol, and in particular, here in the Senate.

This year I am happy to host ten young ladies, all with very promising futures, most from my home State of Louisiana. Please welcome: Miss Lily Cowles of Shreveport, LA; Miss Caroline Pullen and Miss Claire Pullen of Houston, TX; Miss Keely Childress of Monroe, LA; Miss Elisabeth Whitehead

of Baton Rouge, LA; Miss Megan Haverstock and Miss Lauren Haverstock; Miss Kathleen Warner of Lynn Haven, FL; Miss Ashley Bageant of Spotsylvania, VA; Miss Annie Ballard of Baton Rouge, LA; Miss Erin Douget of Opelousas, LA.

In closing, I would like to thank the Ms. Foundation—the founder and organizer of this outstanding program that has impacted in a very positive way the lives of millions of girls and has become a tradition for thousands of workplaces across the country.●

IN RECOGNITION OF 1976 BROWN UNIVERSITY IVY LEAGUE CHAMPIONSHIP FOOTBALL TEAM

● Mr. CHAFEE. Mr. President, I rise today to recognize Brown University's 1976 Ivy League Championship Football Team, which recently was inducted into the Brown University Athletic Hall of Fame. In particular, I want to salute Joe Wirth, an assistant coach of that team, who was inducted into the Brown Hall of Fame in his own right in 1995, and who was an important influence on my own collegiate athletic career.

Joe coached at Brown from 1973 to 1979, and during his tenure, the Brown University Bears compiled an impressive 42–18–1 record. Joe Wirth was a defensive genius, and it certainly showed out on the field—the Brown defense was nationally ranked in five of those seven seasons. In the 1976 championship year, when the Bears led the way with an 8–1 record, they allowed the second-fewest points in the Ivy League. And that stingy defense translated into victories over the traditional league powers: Princeton, Harvard, and Yale. It was the first time in the school's history that they beat all three in the same season.

As if his responsibilities to the football team were not enough, Joe also was the coach of the wrestling team during that time and he helped keep the program alive. He produced a New England Champion in 1976. As one of Joe's co-captains on the 1975–76 wrestling team, I can attest that he had the respect and admiration of all of his wrestlers. We were all so grateful for his leadership and for his encouragement.

Despite the time commitments associated with his football and wrestling teams, Joe remained a family man. With his wife, Carol, he raised a wonderful family of six children.

To this day, Joe Wirth is a popular figure in Brown athletic circles. His players still recall his admonition to never give up ''until the last white line is crossed.'' In honor of his accomplishments as a Brown coach, I will conclude with a toast first offered to the 1976 Ivy League Champions by my classics professor, John Rowe Workman:

To your continued good health
To your continued prosperity
And to the maintenance of the great tradition●

NATIONAL PECAN MONTH

● Mr. DOMENICI. Mr. President, I rise today to recognize National Pecan Month. Each April the nation celebrates the pecan. Used in recipes ranging from pies and candy to soups and salads, the pecan is an important part of New Mexico's diet and economy.

New Mexico is the third largest pecan producing State following Georgia and Texas. The Pecan tree is uniquely native to North America. Pecans were first introduced to New Mexico in the early 1900's at the New Mexico State University and then in the Mesilla Valley. In 1932, the late Dean Stahmann Sr. planted the first commercial Pecan orchard, and pecans quickly became an important product of our State. In 2001, the State of New Mexico produced over 50 million pounds of pecans and had approximately 30,000 acres of pecan trees.

I am proud of the 15 New Mexico counties which produce pecans. Seven of the leading counties in pecan production include Chavez, Dona Ana, Eddy, Lea, Luna, Otero, and Sierra. Dona Ana county has more than 20,000 acres of pecan trees. Eight others including Bernalillo, Curry, De Baca, Grant, Hidalgo, Lincoln, Quay, and Roosevelt are all growing as valuable pecan producing counties.

Pecans not only taste great, but also may provide a way to help American's live healthier lives. A recently released study printed in the Journal of Nutrition reported regular consumption of pecans lowers cholesterol in conjunction with a step I diet of the American Heart Association. I encourage all American's to celebrate National Pecan Month with the people of New Mexico.●

TRIBUTE TO 2002 TEACHER OF THE YEAR: CALIFORNIAN CHAUNCEY VEATCH

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a great Californian, Chauncey Veatch, whom I am very proud to know. Chauncey Veatch has been bestowed the highest honor available to teachers; he has been named the 2002 ''Teacher of the Year.''

I have had the honor of meeting Chauncey Veatch on two occasions. First when he became California's Teacher of the Year, and then again today. I could tell from my first meeting with Mr. Veatch that California was lucky to have a teacher like him in the State. His love for teaching and genuine concern for his students was apparent from the way he spoke about his classroom, students, and community.

Mr. Veatch did not always know he wanted to be a teacher. He came to teaching later in his career. He first spent 22 years in the Army infantry and medical services corps, working as a medical administrator.

After retiring in 1995, Mr. Veatch decided to follow in his siblings footsteps and become a teacher. He currently teaches social studies at Coachella Valley High in Thermal, California. The overwhelming number of his students come from migrant families, and nearly all of his students are Spanish-speaking. Mr. Veatch speaks Spanish to communicate with many of his students and to show respect for their culture.

His students and colleagues know Mr. Veatch as a courteous, tireless worker. He goes the extra mile for his students and his community. It is not uncommon for Mr. Veatch to spend hours after school helping students get caught up on their course work or to get ahead. One of his migrant students had to work with his family until November. A place was saved for him in the classroom, and Mr. Veatch worked with him everyday after school to make sure he caught up with the rest of the class. This is just one example of the many students he has helped.

Mr. Veatch's former principal, Rick Alvarez, said of his colleague: ''Believing our students can succeed is not a desire or a facade, but is actually something Chauncey lives. This caring can be seen in his eyes and heard in his voice and felt in his presence, and mostly seen in his actions.''

Chauncey Veatch said in the Rose Garden yesterday as President Bush presented him with his award, ''If you'd like to be a part of America's tomorrows become a teacher today.'' Mr. Veatch is a living example of the difference each person can make in the life of a child. Along side him at the ceremony were two of his students whose lives he has touched and undoubtedly changed. His students are his legacy, as he commonly refers to them as his ''kids.'' Through his actions, it is apparent to me that the terms ''kids'' is not only used a word to describe his classroom, but really how he thinks of his students. They are like family.

From Army Colonel to ''Teacher of the Year,'' I am proud to know you Chauncey Veatch and to call you a Californian. In Mr. Veatch's words, ''There is nothing more rewarding, nothing more patriotic than teaching. It is truly a joy and honor to be a teacher. This award belongs to my students.''●

● Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention an exceptional person—Chauncey Veatch, a teacher from Coachella Valley High School in Thermal, California.

He teaches world history, government and ninth-grade career preparation at Coachella Valley High School. He also does much more. He has taught English as a Second Language and citizenship classes in evening adult school. He revived the high school's cadet program, which has grown to 170 students. And he is often found with his students and their families outside of school in the community. Although he has only been teaching since 1995, after 22 years of service in the U.S. Army, Mr. Veatch

has become a mentor and an inspiration not only to his students, but to other teachers as well.

While he has never sought recognition, Chauncey Veatch was selected last year as California Teacher of the Year. More significantly he was recently honored at the White House as the 2002 National Teacher of the year.

Chauncey Veatch believes in his students and demonstrates that belief to them every day. The result is they believe in themselves. Their success in school, and in life, is remarkable.

California is extremely proud of Chauncey Veatch. I am honored to pay tribute to him. As National Teacher of the Year he will travel for a year as an education ambassador. I encourage my colleagues to join me in wishing Chauncey Veatch continued success as he spreads his positive message across our nation and beyond and as he continues his exceptional teaching.●

NUCLEAR SECURITY OFFICERS

● Mr. SMITH of New Hampshire. Mr. President, I rise to recognize the brave and patriotic security officers who protect the Seabrook Nuclear Power Station in my State of New Hampshire. Recently, allegations have been made that have caused great concern to these highly trained professions. The Local 501 Security, Police and Fire Professionals of America have written a letter to me and provided a position paper representing their views of security at Seabrook Station and responding to the issues raised by others. One particular part of the position paper caught my attention as it exemplifies the character of the brave men and women who serve and protect our nuclear power plants. It reads,

> The last thing that you should know about us is that we are your family, your friends and your neighbors. Most of us live within 20 miles of the plant. We have families and children of our own. Everything that we have worked so hard for and love is in close proximity to this plant. We are not cowards and will not run. God forbid the day ever comes, but if it does, we will stay and fight for you and for our friends and families.

I want to thank the President of Local 501, Clifford Bullock, and all of the professionals who are members of Local 501 for providing their well-informed perspective on security at Seabrook Station. Most importantly, Mr. President, I want to thank them for their bravery and commitment to protecting all of us—they are true patriots. I ask that the letter and position paper of Local 501 be printed in the CONGRESSIONAL RECORD.

APRIL 24, 2002.

The Hon. ROBERT SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: We understand from news media reports that two former security officers from Seabrook Station are planning to meet with various Congressional staff members to discuss concerns they have about their service at Seabrook.

As the Senator from New Hampshire and the ranking member of the Environment and Public Works Committee, we believe you would be interested in our position on the issues raised by the former officers. The attached paper represents the position of Local 501 of the Security, Police and Fire Professionals of America. We feel that it is especially important for you and your colleagues to have a full perspective on these issues.

We would be pleased to provide any additional information or respond to any other questions you may have.

Thank you for your consideration.

Sincerely,

CLIFFORD BULLOCK,
President, Local 501, Security, Police and Fire Professionals of America.

STATEMENT ON SECURITY AT SEABROOK STATION FROM SECURITY, POLICE AND FIRE PROFESSIONALS OF AMERICA—LOCAL 501—APRIL 23, 2002

Since the tragic events of September 11, the nation has been focused on its security like never before. The public and media have been quick to both praise and criticize the men and women tasked with keeping us safe from harm. Recently, light has been shed on a relatively unknown part of America's critical infrastructure; the protection of our nation's commercial nuclear power reactors. It seems that since September 11, hardly a week goes by that there is not a story in the news regarding the possibility of attacks against a nuclear power plant. This increased media attention has produced two results. It has shown us that prior to September 11, most people in this country were unaware of the importance of homeland security. It has also shown us that in this time of national uncertainty, anyone appearing on television, regardless of his or her background, education or experience, may be considered a ''security expert''.

In recent weeks, former newly hired security officers have expressed their perception that the security at the Seabrook Nuclear Power Station is inadequate. We would like the public to know that the concerns expressed by these individuals had been bought to the attention of management, and that they were being evaluated and any discrepancies addressed. The former officers' main area of concern centered on the initial training they received when they were hired in November 2001. They expressed discontent with the quality and quantity of tactical and weapons training they received during the six weeks of initial classroom and practical instruction. In an open letter to the public, one of the former officers stated that he fired only 96 rounds at the range before being declared ''proficient'' with his weapon. What he failed to disclose was that after firing 96 practice rounds, he then fired 120 rounds in order to qualify with his weapon using a state of New Hampshire and U.S. Nuclear Regulatory Commission-certified course of fire. After qualification came familiarization training on a stress-fire course and low-light firing. Only after successful completion of this training (300–350 rounds) is any officer declared ''proficient'' with his or her weapon. Admittedly, we would all like more time to practice with our weapons, not only because we want to hone our skills, but also because we enjoy it and are very good at it.

The strategic doctrine of nuclear power facilities is not designed to be as extensive as that of a SWAT team or a Special Forces branch of the military. We are by our very nature, defensive, not offensive. During our initial training we spend approximately four days learning general and site-specific tactics. This training, coupled with an intimate knowledge of the plant, ongoing training and drills and a fair measure of common sense prepares an individual to protect this plant in the event of an attack.

Although for obvious reasons we cannot disclose the specifics of our tactical strategy, we want the public to know that it has been validated numerous times by both industry and military experts and that, as the people who will employ it into actual use, we are confident that it is sound.

On September 11, due to our heightened state of alert, we stopped conducting tactical training drills on shift. Drills, though, are an essential part of the training process, and in January of this year, we began to once again practice our defensive strategy. The resumption of drills coincided with the few weeks that the former officers actually worked on shift. In their statements, they criticized our ability to perform our jobs of protecting this plant and the public from a terrorist attack based upon what they saw. Drills are performed as ''force on force'' exercises, meaning that a mock adversary team actually ''attacks'' the on-shift security officers. Explosions, gunfire and ''kills'' are simulated, and after the drills are complete, a critique is completed and feedback given not only to those involved, but also to the officers who did not participate in the drills. A mistake or failure during a drill may serve to save that person's life during an actual attack on the plant. It should be noted that sometimes the defending officers do not win the the drills. This is not a reflection of our abilities or aptitude, but rather of the difficulty of the exercises that are conducted. Adversary teams consist of well-trained officers and supervisors who are not only familiar with every square inch of the facility, but are also experts on our tactical and defensive strategy and can predict every movement of the defenders. Drills are meant to be difficult in order to reinforce the skills of the officers involved. With the odds stacked so far in favor of the adversaries, the public should take solace in the fact that we actually win many more drills than we lose. Initial training is only one step in the ongoing development of the skills and experience required to protect the public from the danger of a terrorist attack on our facility.

There was one last concern brought forth by these individuals that we wish to address as being not only erroneous, but also as nothing short of a personal attack on the hard-working men and women of the security staff at Seabrook Station. Our former co-workers have stated that in the event of an actual attack, the majority of officers would use their weapons to flee the plant. We want to state for the record that the dedication and integrity of the security force at Seabrook is unimpeachable.

Since September 11, despite long hours and few days off, no officer who was here prior to the terrorist attacks, has resigned or been terminated. Those of us who were here before have stayed, not because we cannot find other jobs, but because we are dedicated to what we do.

For those of you who do not know us, please allow us to introduce ourselves. We are educated, experienced and hard-working individuals. Thirty percent of us have college degrees. Eighty percent have prior military, law enforcement or security experience. On average we are 38 years old, and have worked as security officers at Seabrook Station for over eight years. Since September 11, we have worked roughly 60 hours per week. We know the dangers inherent in our work; we know the possibility of a terrorist attack on a U.S. nuclear power plant. Every day that we drive through the gate, we know that we are putting our lives at risk to protect the public, yet we continue to come.

The last thing that you should know about us is that we are your family, your friends and your neighbors. Most of us live within 20 miles of the plant. We have families and children of our own. Everything that we have

worked so hard for and love is in close proximity to this plant. We are not cowards and we will not run. God forbid the day ever comes, but if it does, we will stay and fight for you and for our friends and families.

Members of the public should be confident that the security of Seabrook Station is tight, and will get tighter in the months ahead. We will be the first to admit that we are not perfect. As in any organization, we have areas in need of improvement. We have been addressing these areas and together with management, continue to strive towards making these improvements a reality. In the meantime, we will continue to be here to protect the public from the threat of radiological sabotage, just as we have been since well before September 11, 2001.

CLIFFORD BULLOCK,
President, Local 501—Security, Police and Fire Professionals of America.●

TRIBUTE TO MICHAEL JACOBS

● Ms. MIKULSKI. Mr. President, I rise today to pay tribute to Michael J. Jacobs as he leaves the National Security Agency. Mr. Jacobs has served our nation for more than 38 years. He has distinguished himself and the National Security Agency in positions of increasing responsibility. Mr. Jacobs capped his illustrious career as the Information Assurance Director of the National Security Agency.

Mr. Jacobs is an outstanding example of the many dedicated public servants who fulfill critical needs, often without public recognition. When Mr. Jacobs joined the NSA, the agency's existence was a secret. While the American people now know and appreciate more about the NSA, most of the attention goes to signals intelligence.

Mr. Jacobs made his mark fulfilling the NSA's other core mission: information assurance. He has led and shaped the essential effort to develop secure information systems. Our Presidents, our Armed Forces, our diplomats, our intelligence agencies, and other Government leaders depend on secure communications every day. During his tenure, Mr. Jacobs has shaped every part of how our government addresses the Information Assurance needs.

Mr. Jacobs demonstrated a real commitment to the long-range needs of America. His initiatives in research and education are key examples. He worked to sustain the Information Assurance Awareness and Training and Education Research Program. He also broke new ground in establishing NSA Centers of Excellence in Information Assurance Education at institutions of higher learning in Maryland and across the country.

Mr. Jacobs was stayed ahead of the curve in protecting America's critical information infrastructure. The White House recognized the Information Assurance System Security Education and Training Program (NIEPT) he developed as a model in Government.

Mr. Jacobs' embodies the best traditions of our civil service. That's why he has been recognized with the NSA Exceptional Civilian Service Award and the National Intelligence Medal of Achievement.

As the Senator from Maryland and a member of the Senate Select Committee on Intelligence, I want to thank Mr. Jacobs for his dedication to the United States of America. He has served our nation with honor. I wish Mike well as he enters a new phase of his life.●

THE INTERNATIONAL TRADE COMMISSION: LOOKING TO THE FUTURE

● Mr. GRASSLEY. Mr. President, this year marks the 76th year of operations for the U.S. International Trade Commission, ITC. Throughout that time, the Commission has played an essential role in the administration of U.S. trade remedy laws.

Today, I would like to emphasize two aspects of the ITC that I believe are critical to their ability to effectively administer U.S. trade remedy laws in the future.

First, it is important to remember that the ITC is an independent, impartial arbiter in international trade disputes under U.S. trade law. This independent stature was established and is guaranteed by the Congress. Inevitably, by deciding the cases on the merits, the Commission has made decisions that may be unpopular with certain industry sectors or individual Senators and Representatives—including me—and will doubtless to so again. But, despite disagreements the Congress continues to defend the Commission's independence. The fact that the Commission and Commissioners can rule on the merits, without fear of political pressure or retribution, is crucial to America's economy at home and our trade negotiations abroad.

As other nations begin to implement their own trade remedy laws, they often look to U.S. law and institutions for guidance. It is important the U.S. institutions serve as good models for other nations. One way to do that is for Congress to ensure that the independent nature of the ITC is preserved, regardless of the outcome of any particular case, just as we would any other quasi-judicial agency. It is our duty as elected representatives.

There is one other issue related to the ITC I would like to highlight, and that is the importance of having ITC Commissioners with an agriculture background. As the number of agricultural cases before the ITC increases, the appointment of a Commissioner with a substantive agricultural background is crucial to American agriculture. There are currently a number of antidumping orders and pending investigations affecting agricultural products. The ITC's commissioners must determine whether U.S. producers have suffered injury from unfairly traded products. A background in agriculture would assist the Commission in deciding these cases on the merits. I hope that the Administration will consider nominees with a background in agriculture, as current Commissioners' terms expire.●

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

● Ms. STABENOW. Mr. President, I rise today to honor National Organ and Tissue Donor Awareness Week, April 21 through April 27, 2002. I want to commend the thousands of families each year whose selfless generosity helps save the lives of others. Since January, 115 people in my State of Michigan have received organ or tissue transplants. Unfortunately, in that same time, 40 people in Michigan have died waiting for needed organs.

Each day in America, about 63 people receive an organ transplant, but 16 die waiting. Over 79,000 Americans are on waiting lists for organs and tissues. For many of them, this issue is about their very survival. Right now, we have almost everything we need to save these lives. We have skilled doctors and medical professionals and we have hospitals with transplant facilities. All we need now are people who are willing to share the gift of life with others.

I would like to share the story of Maria Compagner, a 5-year-old girl who lives in Holland, MI. When Maria was 2 months old, she was diagnosed with hepatic hemangioendotheliomas on her liver, which caused her liver to grow at such a rapid pace that it pushed her other vital organs out of place. She was hospitalized, received chemotherapy and Alpha Inferon treatment, followed by steroid treatments. The treatments permanently damaged Maria's thyroid gland and inhibited growth hormone production. She will have to take synthetic hormones for the rest of her life.

Maria suffered from congestive heart failure, severe respiratory distress which led to many intubations, a pulmonary hemorrhage in her lung, several serious infections, hypothyroid condition, a collapsed lung, pneumonia, chronic emesis, aspiration, and severe reflux, all before her first birthday.

Just before her first birthday, Maria finally received a precious gift of life, a new liver. She spent the next year in and out of the hospital. After a little catching up, Maria is a happy and well-adjusted 5-year-old.

But she's not out of the woods yet. In November 2000, doctors discovered that Maria's portal vein and inferior vena cava are blocked and her hepatic artery is narrowed. She is now waiting for a second liver transplant to correct those problems.

This week, I urge all Americans to consider becoming an organ donor. I urge them to think about filling out a donor card. And most importantly, I urge them to talk to their families about their decision.

When you become an organ donor, you guarantee that you will live on not just in the memories of your loved ones. You will live on in the heart and soul of the fellow human beings you save, and in the heart and soul of every loved one that person gets to touch.●

60TH ANNIVERSARY OF THE UNITED WAY OF CHITTENDEN COUNTY

• Mr. JEFFORDS. Mr. President, I would like to take this opportunity to recognize and celebrate the United Way of Chittenden County on the occasion of their 60th Anniversary. Many Vermonters have worked tirelessly for this organization throughout the years and I take great pride in what they have accomplished.

Since Henry Way founded the organization under the name of the Burlington Community Chest in 1942, the United Way has brought vital services to generations of Vermonters and earned its reputation as a cornerstone of Chittenden County's collaborative community development.

Vermonters must never take for granted the key role the United Way plays in the well-being of our local communities. Sustainable, grassroots solutions to complex problems do not come easily. In partnership with citizens, businesses, services, State and Federal Government, the United Way helps to fund such worthy organizations as the Girl Scouts, YMCA, Red Cross, Salvation Army, and many more.

Communities throughout the United States are served well by their local United Way chapters. If founders Henry Way, C.P. Hasbrook, and I. Munn Boardman were alive today they would be proud of the organizational strength the United Way has built through the years. I commend the board, staff, contributors, and volunteers for their generous efforts in securing crucial resources for their communities. The legacy of these groundbreaking Vermonters is honored by sixty years of tenacious work. This proud history continues today under the apt leadership of Gretchen Morse. I am sure the United Way of Chittenden County will continue to be an example for other charitable organizations throughout the country.

The United Way is sure to meet their community's challenges in the next 60 years with the vision, leadership and perseverance demonstrated today.

I extend my hearty congratulations.•

DRAWING THE LINE ON GUN VIOLENCE

• Mr. LEVIN. Mr. President, I am pleased to call to the attention of my Senate colleagues, Mr. Hasani Tyus, a junior at Cass Technical High School in Detroit, MI. He has been drawing for years and has won several Motor City Comic Book Convention art awards. Hasani, along with his father, have been honored in a book of outstanding African-Americans for their artwork. Hasani is also a member of several academic societies, is a straight A student and recently earned his black belt in karate. More importantly, Hasani has done what so many young people across the Nation have done in the years following the Columbine tragedy. He has put his talents to use. He did so by urging us to ''Draw the Line on Gun Violence.''

Hasani is 1 of 13 national poster contest winners selected from more than 1,000 entries by the Alliance for Justice's Co/Motion Program, a national program that helps community organizations teach youth leaders to become advocates for a cause in their community. Co/motion partners with youth organizations, national service and service learning programs, schools and other community-based organizations to provide training to young adults in advocacy and organizing skills. Further, it empowers young people to take action to effect social change. Co/motion's Drawing the line on Gun Violence Poster Contest, the first of its kind, provided young people the opportunity to express their feelings about the issue of gun violence in a rewarding and artistic way. Hasani's award-winning poster is currently posted on my website (http://levin.senate.gov).

I had the pleasure of meeting Hasani earlier this week and I commended him on his hard work and honest depiction of the results of gun violence. I am sure that I speak for many of my Senate colleagues in congratulating Hasani Tyus on a job well done.•

ESSAY BY LELAND MILLER

• Mr. BIDEN. Mr. President, recently I was asked by a constituent of mine, Mr. Marshall Miller, if I would seek to have an essay on Central Asia that was written by his son, Leland, reprinted in the CONGRESSIONAL RECORD. Leland Miller is a second year law student at the University of Virginia. I ask that Mr. Miller's essay be printed in the RECORD.

The essay follows:

KEEPING CENTRAL ASIA'S KLEPTOCRATS AT ARM'S LENGTH

(By Leland R. Miller)

As American planes take off from Uzbek airstrips to provide support for the war against the Taliban, another conflict is occurring nearby, underneath the radar of the American media. Kazakhstan, the largest territory in Central Asia, is undergoing a palace coup. Yet few in Washington seem to know or care.

As the only major area on earth that is still ''up for grabs,'' Central Asia may very well become a key geopolitical battleground of the 21st century. This is nothing new. In the early 20th century, British strategist Sir Halford J. Mackinder proclaimed that whoever controls Central Asia has the key to world domination. Yet a century later, it is almost an afterthought in American strategic thinking.

This is a major mistake, the result of two phenomena. First, the war in Afghanistan has convinced U.S. policy makers that the need for support—both rhetorical and substantive—from Central Asian regimes trumps all other considerations.

Second, the promise of the Caspian oil basin and other large business opportunities in the lucrative Central Asian energy markets have seduced Washington into turning a blind eye towards whom we are dealing with.

As a result of these dual factors, America is walking into a dangerous trap. As we open our arms to these unstable and authoritarian Central Asian regimes, they are gradually gaining the status not just of America's temporary allies but as our friends. This is a disastrous betrayal of U.S. interests. Granted, the promise of quick rewards is enticing. However, like all Faustian bargains, the sacrifice could be considerable.

Perhaps no country sings this siren song more effectively than Kazakhstan. Although it is one of the world's poorest countries, its president, Nursultan Nazarbayev, is ranked as the eighth richest man in the world. The reason? He and his two venal sons-in-law have run Kazakhstan as a family business. The family has sustained itself through gross corruption and the ruthless exploitation of would-be foreign investors.

The Kazakh leaders entice investments or loans, take over the investments under some pretext, then ''sell the same horse'' again to someone else. With abundant oil, uranium, and other resources, the country always seems able to find another group of gullible suitors. If that fails, pseudo-investments can be induced to cover up money laundering from the Russian mafia.

The recent crisis in Kazakhstan only reinforces this image. It began when Rakhat Aliyev, son-in-law to President Nursultan Nazabayev, was forced to resign his position as deputy chairman of the National Security Committee after reportedly making an Absalom-like run at his father-in-law's authority. He re-emerged just days later as the new head of the presidential guard, seemingly unscathed, but he had driven the first big split in the ruling family. His detractors used this opening to form a new party, Democratic Choice.

While some insiders have suggested that this new group may be nothing less than a second tier of crooks fighting Aliyev for a bigger piece of the pie, the government reacted swiftly. Prime Minister Kasymzhomart Tokayev, a Nazarbayev crony, angrily demanded (and received) the resignations of four top cabinet members, all of whom were founding members of the new party. Tokayev's justification?: ''All those disagreeing with our policy and wishing to participate in political movements should resign.''

Perhaps no one outside of the palace in Astana knows what's really going on. But in the world of Kazakh politics, it matters little whether this battle was an intrafamily fight for power or simply a battle amongst politicians unhappy with the current division of spoils. Either way, this is clearly not a regime that America should be too identified with.

True, Kazakhstan does draw some favorable comparisons, but only when contrasted with its neighbors. The fact is, Central Asian governments are among the most corrupt and repressive regimes in the world. Most inherited the apparatuses of their communist predecessors and many have been just as ruthless in wielding it. Most, like Nazarbayev's and Turkmenbashi's of Turkmenistan, are even extensions of the same communist party structure that they allegedly replaced.

Autocratic and corrupt governance is the rule, not the exception, in Central Asia. The lack of available political channels is so endemic in these countries that frustrated citizens are offered but two choices: attempt to mobilize politically, despite the obvious barriers, or else turn to extra-political means of empowerment.

It is this second possibility that so desperately deserves U.S. attention. Across Central Asia, ethnic and religious differences among the populations constitute a

sizable obstacle to stability and democratic governance. Unlike the Balkans, however, it is not an insurmountable one.

Despite the pervasive following of Islam in the region, religious extremism does not have the same roots in Central Asia that it does in other parts of the world. Radical groups, such as the Islamic Movement of Uzbekistan (whose leader, Jumaboi Khojiev Namangani, was reportedly killed fighting in Afghanistan—some sources say he has merely gone into hiding) are fortunately still the exception.

However, this could certainly change if repressive regimes continue to kindle the flames of religious extremism by stifling virtually all other opportunities for political voice. The horrors of Algeria should not be replicated in Uzbekistan or Tajikistan.

Situated in the middle of Russia, China, and India, and with virtually untapped energy potential, Central Asia would be an area of importance to the United States even under the best of circumstances. However, the War on Terror has now considerably upped the ante. Support for the cause of Muslim fundamentalism in Central Asia not only threatens the region's stability, but is sure to mean more fuel for a global jihad. As the events of 9/11 have made clear, America has as much reason to fear that development as any of the regimes themselves.

The next generation of America's leaders must not be made apologists for today's policies aimed at the short-term and short-sighted advancement of U.S. interests. This means avoiding marriages of convenience with repressive Central Asian regimes that will inevitably prove harmful to the nation's future.

The New Great Game in Central Asia is very much a battle of good against evil. Democracy, not Islamic extremism, must fill the political void. While the U.S. has no role in fomenting or aiding these ''coups of the apparatchiks,'' Americans are still beholden to one obligation: We need to at least make sure we are not rooting for the wrong side.●

TAKE OUR DAUGHTERS TO WORK DAY

● Ms. LANDRIEU. Mr. President, I have had the privilege of hosting some of the future leaders of America in my office as part of Ms. Magazine's Take Our Daughters to Work Day. As part of the day's activities I asked them to write a speech on what they would do if elected to serve as a United States Senator. I am proud to submit for the record some of their responses.

If I were a United States Senator by Annie Ballard, 5th Grade, Future US Senator 2021. As a Senator of the United States I will find equality for all peoples of the Nation. For every man, woman and child of all races and types. Every man and woman should have equal pay and treatment. In some places of the country, women and people of color are not payed or treated equally to whites and men. Hispanics might be payed $2.29 for 13 hours of work each day. Some women are qualified for jobs and have to give them up because of a less qualified man. Teams of sports will choose males over females in football, baseball and other sports. In this bill, I plan to equalize all jobs, sports and pay for all people of the United States of America.

What I would do if I were Senator, by Ashley Bageant. I would increase security at big buildings and airports so our environment can be more safe. I would do that by hiring more police officers. I would try to treat everybody the same. I would do what I would think would be right for our country. I would pay my people more money so they would have enough money to build homeless shelters to get homeless people off the street.

What I would do if I were Senator? By Kathleen Warner, 9th Grade, Future US Senator 2018. As a high school student and a Catholic, I am pro-life and feel that my opinion should be strongly considered. My reasoning on the abortion issue is that a child is a life from the point of conception and therefore should by the state just like any other citizen. Also, if a child is conceived unexpectedly the mother can put the child up for adoption where he or she has the same opportunity as other children to live a strong, successful life. Finally, let me say, I am proud to live in a country where I can express my opinion like this.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.

MESSAGE FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

ENROLLED BILL SIGNED

At 3:19 p.m., a message from the House of Representatives delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

MEASURERS REFERRED

The following bill was read the first and the second times by uunanimous consent, and referred as indicated:

H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6572. A communication from the Deputy General Counsel, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Director for State and Local Affairs, received on April 17, 2002; to the Committee on the Judiciary.

EC–6573. A communication from the Deputy Assistant Director, Fish and Wildlife Service, Office of Law Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Conferring Designated Port Status on Anchorage, Alaska'' (RIN1018–AH75) received on April 22, 2002; to the Committee on Environment and Public Works.

EC–6574. A communication from the Chairman and Vice Chairman of the Federal Election Commission, transmitting jointly, the Fiscal Year 2003 Budget Request Amendment; to the Committee on Rules and Administration.

EC–6575. A communication from the Acting Chairman of the Merit Systems Protection Board, transmitting, a report relative to the Merit Systems Protection Board Reauthorization Act of 2002; to the Committee on Governmental Affairs.

EC–6576. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''National Defense Authorization Act for Fiscal Year 2003''; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–229. A resolution adopted by the Senate of the Legislature of the State of Michigan to support Federal assistance, through the Transportation Efficiency Act, for the Village of Holly/Rose Township Michigan Highway-Rail Life Safety Access Project; to the Committee on Appropriations.

SENATE RESOLUTION NO. 172

Whereas, Blockage of the Cogshall Road crossing creates a life-threatening danger to residents in Holly Shores, a mobile home subdivision, when emergency vehicles cannot gain access; and

Whereas, Proximity of wetland limits the areas that can be used to address the problem; and

Whereas, Local, state, and railroad matching contributions will be used in conjunction with the Transportation Efficiency Act (TEA–21) grant to extend a passing siding to ensure no extended blockage and thus access for emergency vehicles; and

Whereas, A permanent resolution is necessary to address this significant safety problem; now, therefore, be it

Resolved by the Senate, That the members of this legislative body memorialize the Congress of the United States to approve federal assistance, through the TEA–21 grant program, for the Village of Holly/Rose Township Michigan Highway-Rail Life Safety Access Project; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–230. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to economic stimulus legislation; to the Committee on Finance.

HOUSE RESOLUTION NO. 348

Whereas, The attack on America of September 11, 2001, was a shock to the Commonwealth of Pennsylvania and the nation; and

Whereas, There is an ongoing military and multidimensional response to terrorism that we strongly support; and

Whereas, The United States faces the potential of a serious recession, having already lost 50,000 manufacturing jobs in Pennsylvania since the beginning of the year, and the attack on America may cause the loss of an estimated additional 15,000 jobs; and

Whereas, The Congress of the United States has already taken critical action to support affected industries and is proposing additional aid to business; and

Whereas, The Congress is considering an economic stimulus package; and

Whereas, The core goal of an economic stimulus package is the stabilization of communities; and

Whereas, Supporting business to stabilize employment must be a critical part of any economic stimulus package to be adopted by the Congress; and

Whereas, Supporting workers must be included as part of any economic stimulus package to stabilize the economy; and

Whereas, Supporting State and local governments to avoid or lessen state or local tax revenues is a critical part of any economic stimulus package; and

Whereas, The economic stimulus package should include the following provisions: extending federally funded unemployment compensation, where needed, by 26 weeks; aiding workers by improving health care access by at least paying 75% of the COBRA health care costs and other health care assistance; aiding workers by fully funding targeted training and worker reemployment programs and taking such other actions to save personal homes and stabilize credit transactions; and

Whereas, If the Congress does not address the critical areas of economic stimulus, business workers and State and local government, these costs will have to be borne by State and local governments, workers and business; and

Whereas, The economic stimulus package adopted by the Congress on October 24, 2001, fails to adequately address the needs of workers in state and local government; therefore be it

Whereas, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to address each of the three critical areas that will create economic stability and allow full growth; and be it further

Resolved, That the House of Representatives ask the Congress to help workers by considering the following provisions: extending federally funded unemployment compensation, where needed, by 26 weeks; aiding workers by improving health care access by at least paying 75% of the COBRA health care costs and other health care assistance; aiding workers by fully funding targeted training and worker reemployment programs and taking such other actions to save personal homes and stabilize credit transactions; and be it further

Resolved, That the House of Representatives respectfully request that the Congress provide aid to affected states to offset revenue deficits; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officer of each house of Congress and to each member of Congress from Pennsylvania.

POM–231. A resolution adopted by the Town Board of New Castle, New York relative to nuclear power plants; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 864: A bill to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings , or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad. (Rept. No. 107–144).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 495: A bill to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building.''

H.R. 819: A bill to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the ''Donald J. Pease Federal Building.''

H.R. 3093: A bill to designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the ''William L. Beatty Federal Building and United States Courthouse.''

H.R. 3282: A bill to designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the ''Mike Mansfield Federal Building and United States Courthouse.''

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S. Res. 109: A resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day.''

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 245: A resolution designating the week of May 5 through May 11, 2002, as ''National Occupational Safety and Health Week.''

S. Res. 249: A resolution designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 410: A bill to amend the Violence Against Women Act of 2000 by expanding legal assistance for victims of violence grant program to include assistance for victims of dating violence.

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 1721: A bill to designate the building located at 1 Federal Plaza in New York, New York, as the ''James L. Watson United States Court of International Trade Building.''

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1974: A bill to make needed reforms in the Federal Bureau of Investigation, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 102: A concurrent resolution proclaiming the week of May 4 through May 11, 2002, as ''National Safe Kids Week.''

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

John Edward Quinn, of Iowa, to be United States Marshal for the Northern District of Iowa for the term of four years.

David Phillip Gonzales, of Arizona, to be United States Marshal for the District of Arizona for the term of four years.

Edward Zahren, of Colorado, to be United States Marshal for the District of Colorado for the term of four years.

Charles M. Sheer, of Missouri, to be United States Marshal for the Western District of Missouri for the term of four years.

Gorden Edward Eden, Jr., of New Mexico, to be United States Marshal for the District of New Mexico for the term of four years.

John Lee Moore, of Texas, to be United States Marshal for the Eastern District of Texas for the term of four years.

Ronald Henderson, of Missouri, to be United States Marshal for the Eastern District of Missouri for the term of four years.

By Mr. GRAHAM for the Select Committee on Intelligence.

*John Leonard Helgerson, of Virginia, to be Inspector General, Central Intelligence Agency.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendations that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORZINE:

S. 2250. A bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55; to the Committee on Armed Services.

By Mr. SPECTER:

S. 2251. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2252. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2253. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2254. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2255. A bill to suspend temporarily the duty on copper 8-quinolinolate; to the Committee on Finance.

By Mr. SPECTER:

S. 2256. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2257. A bill to include shoulder pads as a finding or trimming for the purposes of the African Growth and Opportunity Act, and the Caribbean Basin Economic Recovery Act, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 2258. A bill to suspend temporarily the duty on 2-Amino-5-sulfobenzoic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2259. A bill to suspend temporarily the duty on 2-Amino-6-nitro phnol-4-sulfonic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2260. A bill to suspend temporarily the duty on p-Aminoazobenzene-4-sulfonic acid and its monosodium salt; to the Committee on Finance.

By Mr. SANTORUM:

S. 2261. A bill to suspend temporarily the duty on 2,5-bis-[(1,3-Dioxobutyl)amino] benzene sulfonic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2262. A bill to suspend temporarily the duty on 2-Mthyl-5-nitrobenzenesulfonic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2263. A bill to suspend temporarily the duty on 3-[(4 Amino-3-methoxyphenyl) Azo] benzene sulfonic acid and its salts; to the Committee on Finance.

By Mr. SANTORUM:

S. 2264. A bill to extend the suspension of the duty on 11-Aminoundecanoic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2265. A bill to provide for the elimination of duty on TOPSPIN; to the Committee on Finance.

By Mr. SANTORUM:

S. 2266. A bill to provide for the elimination of duty on Thiophanate-Methyl; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2267. A bill to extend the temporary suspension of duty on a certain polymer; to the Committee on Finance.

By Mr. MILLER (for himself and Mr. CRAIG):

S. 2268. A bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce; to the Committee on Commerce, Science, and Transportation.

By Mr. CLELAND:

S. 2269. A bill to suspend temporarily the duty on certain textile machinery; to the Committee on Finance.

By Mr. CLELAND:

S. 2270. A bill to suspend temporarily the duty on certain textile machinery; to the Committee on Finance.

By Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, and Mr. ENSIGN):

S. 2271. A bill to provide for research on, and services for, individuals with post-abortion depression and psychosis; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2272. A bill to clarify certain provisions of the Tariff Suspension and Trade Act of 2000; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2273. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2274. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2275. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2276. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2277. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2278. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2279. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2280. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2281. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2282. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2283. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2284. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2285. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2286. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2287. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2288. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2289. A bill to suspend temporarily the duty on benzoic acid, 2-amino-4[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2290. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2291. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2292. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2293. A bill to extend the temporary suspension of duty on Pigment Red 185; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2294. A bill to suspend temporarily the duty on p-amino benzamide; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2295. A bill to extend the temporary suspension of duty on Solvent Blue 124; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2296. A bill to extend the temporary suspension of duty on 4-Amino-2,5-dimethoxy-N-phenylbenzene sulfonamide; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2297. A bill to extend the temporary suspension of duty on Solvent Blue 104; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2298. A bill to extend the temporary suspension of duty on Pigment Yellow 154; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2299. A bill to extend the temporary suspension of duty on Pigment Red 176; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2300. A bill to extend the temporary suspension of duty on Pigment Yellow 214; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2301. A bill to extend the temporary suspension of duty on Pigment Yellow 180; to the Committee on Finance.

By Mr. KERRY:

S. 2302. A bill to suspend temporarily the duty on certain filament yarns; to the Committee on Finance.

By Mr. KERRY:

S. 2303. A bill to suspend temporarily the duty on certain filament yarns; to the Committee on Finance.

By Mr. KERRY:

S. 2304. A bill to suspend temporarily the duty on certain high-performance loudspeakers; to the Committee on Finance.

By Mr. KERRY:

S. 2305. A bill to suspend temporarily the duty on parts for use in the manufacture of

high-performance loudspeakers; to the Committee on Finance.

By Mr. KERRY:

S. 2306. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2307. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2308. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2309. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2310. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2311. A bill to suspend temporarily the duty on a certain chemical used on industrial coatings formulation; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2312. A bill to amend the Harmonized Tariff Schedule of the United States to provide for duty free treatment on certain manufacturing equipment; to the Committee on Finance.

By Mr. CORZINE:

S. 2313. A bill to suspend temporarily the duty on europium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2314. A bill to suspend temporarily the duty on yttrium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2315. A bill to suspend temporarily the duty on 3-sulfinobenzoic acid; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2316. A bill to make technical and conforming changes to provide for the enactment of the Independence of the Chief Financial Officer Establishment Act of 2001, to establish a reporting event notification system to assist Congress and the District of Columbia in maintaining the financial stability of the District government and avoiding the initiation of a control period, to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. KENNEDY, and Mr. KERRY):

S. 2317. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 2318. A bill to provide additional resources to States to eliminate the backlog of unanalyzed rape kits and to ensure timely analysis of rape kits in the future; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2319. A bill to provide for the liquidation of reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2320. A bill to provide for the liquidation for reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2321. A bill to provide for the liquidation or reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2322. A bill to provide for the liquidation or reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. GRAHAM:

S. 2323. A bill to amend the Harmonized Tariff Schedule of the United States to provide a tariff-rate quota for certified organic sugar; to the Committee on Finance.

By Mr. GRAHAM:

S. 2324. A bill to provide for the reliquidation of a certain drawback claim relating to juices; to the Committee on Finance.

By Mr. GRAHAM:

S. 2325. A bill to provide for the reliquidation of a certain drawback claim relating to juices; to the Committee on Finance.

By Mr. GRAHAM:

S. 2326. A bill to provide for the reliquidation of a certain drawback claim relating to juices; to the Committee on Finance.

By Mr. GRAHAM:

S. 2327. A bill to amend the Tariff Act of 1930 to permit duty drawback for articles shipped to the insular possessions of the United States; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. KENNEDY, Ms. MIKULSKI, and Mr. DODD):

S. 2328. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BREAUX (for himself, Mr. SMITH of Oregon, Mr. HOLLINGS, and Mr. MCCAIN):

S. 2329. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 2330. A bill to suspend temporarily the duty on certain telescopes; to the Committee on Finance.

By Mrs. BOXER:

S. 2331. A bill to provide for the reliquidation of certain entries involving machines used to replicate optical discs; to the Committee on Finance.

By Mr. VOINOVICH:

S. 2332. A bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the ''Nathaniel R. Jones Federal Building And United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. REID:

S. 2333. A bill to convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 2334. A bill to authorize the Secretary of Agriculture to accept the donation of certain land in the Mineral Hill-Crevice Mountain Mining District in the State of Montana, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself, Mr. KERRY, Ms. CANTWELL, Mr. WELLSTONE, Mr. DASCHLE, Mr. BAUCUS, Mr. INOUYE, Mr. BINGAMAN, Ms. STABENOW, and Mrs. CLINTON):

S. 2335. A bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WELLSTONE:

S. Res. 252. A resolution expressing the sense of the Senate regarding human rights violations in Tibet, the Panchen Lama, and the need for dialogue between the Chinese leadership and the Dalai Lama or his representatives; to the Committee on Foreign Relations.

By Mr. SMITH of Oregon (for himself, Mrs. CLINTON, Mr. SCHUMER, and Mr. HATCH):

S. Res. 253. A resolution reiterating the sense of the Senate regarding the rise of Anti-Semitic violence in Europe; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself, Mr. GREGG, Mr. CARPER, Mr. HUTCHINSON, and Mr. BAYH):

S. Res. 254. A resolution designating April 29, 2002, through May 3, 2002, as ''National Charter Schools Week,'' and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 677

At the request of Mr. HATCH, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 830

At the request of Mr. HATCH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1054

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 1054, a bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs.

S. 1258

At the request of Mr. DORGAN, the name of the Senator from Arkansas

(Mrs. LINCOLN) was added as a cosponsor of S. 1258, a bill to improve academic and social outcomes for teenage youth.

S. 1346

At the request of Mr. SESSIONS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1346, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1742

At the request of Ms. CANTWELL, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1742, a bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 2038

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2038, a bill to provide for homeland security block grants.

S. 2039

At the request of Mr. DURBIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2055

At the request of Ms. CANTWELL, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2084

At the request of Mr. BOND, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to clarify the exemption from tax for small property and casualty insurance companies.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2216

At the request of Mr. KOHL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2216, a bill to suspend temporarily the duty on fixed-ratio gear changers for truck-mounted concrete mixer drums.

S. 2221

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2242

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2242, a bill to amend title 23, United States Code, to prohibit the collection of tolls from vehicles or military equipment under the actual physical control of a uniformed member of the Armed Forces, and for other purposes.

S. 2244

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2244, a bill to permit commercial importation of prescription drugs from Canada, and for other purposes.

S. RES. 249

At the request of Mr. HATCH, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Missouri (Mrs. CARNAHAN), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 249, a resolution designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans,'' and for other purposes.

AMENDMENT NO. 3230

At the request of Mr. WYDEN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of amendment No. 3230 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

At the request of Mr. BURNS, his name was added as a cosponsor of amendment No. 3230 proposed to S. 517, supra.

AMENDMENT NO. 3239

At the request of Ms. SNOWE, her name was added as a cosponsor of amendment No. 3239 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3256

At the request of Mr. VOINOVICH, his name was added as a cosponsor of amendment No. 3256 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3311

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 3311 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3355

At the request of Mr. TORRICELLI, his name was added as a cosponsor of amendment No. 3355 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3360

At the request of Mr. TORRICELLI, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 3360 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 2250. A bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55; to the Committee on Armed Services.

• Mr. CORZINE. Mr. President, I rise today to introduce a bill that would reduce the retirement age for members of the National Guard and Reserve from 60 to 55. This change would allow 93,000 reservists currently aged 55 to 59 to retire with full benefits and would restore parity between the retirement systems for Federal civilian employees and reservists.

In the interests of fairness, the United States must act quickly to restore parity between the retirement age for civilian Federal employees and their reserve counterparts. When the reserve retirement system was created

in 1947, the retirement age for reservists was identical to the age for civilian employees. At age 60, reservists and Government employees could hang up their uniforms and retire with full benefits. However, since 1947, the retirement age for civilian retirees has been lowered by 5 years, while the reserve retirement age has not changed.

The disparate treatment of Federal employees and reservists would have been serious enough had the nature of the work performed by the reserves not changed substantially over the past five decades. But America has never placed greater demands on its ready reserve than it does now. Today, some 80,000 reservists are serving their country in the war on terrorism, both at home and abroad. America's dependence on our ready reserve has never been more obvious, as reservists are now providing security at our nation's airports and air patrols over our major cities.

With call-ups that last several months and take reservists far from home, serving the Nation as a reservist has taken on more of the trappings of active duty service than ever before. Before the war on terrorism began, reservists were performing about 13 million man-days each year, more than a 10-fold increase over the 1 million man-days per year the reserves averaged just 10 years ago. These statistics, the latest numbers available, do not even reflect the thousands of reservists who have been deployed since September 11. There is little doubt there will be a dramatic increase in the number of man-days for 2001 and 2002. In my view, with additional responsibility should come additional benefits.

The Department of Defense typically has not supported initiatives like this. The Department has expressed concern over the proposal's cost, which is estimated to be approximately $20 billion over 10 years, although CBO figures are not yet available. However, I am concerned that the Department's position may be shortsighted.

At a time when there is a patriotic fervor and a renewed enthusiasm for national service, it is easy to forget that not long ago, the U.S. military was struggling to meet its recruitment and retention goals. In the aftermath of September 11, defense-wide recruitment and retention rates have improved. However, there is no guarantee that this trend will continue. Unless the overall package of incentives is enhanced, there is little reason to believe that we will be able to attract and retain highly-trained personnel.

Active duty military personnel have often looked to the reserves as a way of continuing to serve their country while being closer to family. With thousands of dollars invested in training active duty officers and enlisted soldiers, the United States benefits tremendously when personnel decide to continue with the reserves. But with reserve deployments increasing in frequency and duration, pulling reservists away from their families and civilian life for longer periods, the benefit of joining the reserves instead of active duty has been severely reduced. The more we depend on the reserves, the greater chance we have of losing highly trained former active duty servicemen and women. The added incentive of full retirement at 55 might provide an important inducement for some of them to stay on despite the surge in deployments.

Enacting this legislation will send the clear message that the United States values the increased sacrifice of our reservists during these trying times. The legislation has been endorsed by key members of the Military Coalition, including the Veterans of Foreign Wars, the Air Force Sergeants Association, the Air Force Association, the Retired Enlisted Association, the Fleet Reserve Association, the Naval Reserve Association, and the National Guard Association. The bill would restore parity between the reserve retirement system and the civilian retirement system, acknowledge the increased workload of reserve service, and provide essential personnel with an inducement to join and stay in the reserves until retirement.●

By Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, and Mr. ENSIGN):

S. 2271. A bill to provide for research on, and services for, individuals with post-abortion depression and psychosis; to the Committee on Health, Education, Labor and Pensions.

● Mr. SMITH of New Hampshire. Mr. President, I rise today, along with Senators INHOFE and ENSIGN, to introduce the Post-Abortion Support and Services Act.

On November 1, 2001, the Senate unanimously passed an amendment I introduced to the Labor-HHS Appropriations bill recognizing the existence of post-abortion syndrome. The amendment encouraged the National Institute of Mental Health (NIMH) to ''expand and intensify research and related activities'' regarding this issue, and it is the first time that the United States Senate is on record acknowledging that post-abortion syndrome is a serious problem for American women.

This bill is an extension of what has already passed the Senate, and provides the National Institutes of Health with Federal resources to research the emotional impact of abortion on women. The bill also creates a $1.5 million grant program to fund the development of treatment programs for women who suffer from post-abortion syndrome.

What is post-abortion syndrome? Many people have never heard of it. Many others deny its existence.

Post-abortion syndrome is characterized by one or more of the following symptoms: severe depression, guilt, eating disorders, anxiety and panic attacks, addictions, anniversary grief, nightmares, lower self-esteem, intense anger, suicidal urges, sexual problems or promiscuity, difficulty with relationships, and unexplained sadness.

A new study from the prestigious British Medical Journal reports that women who abort a first pregnancy are at greater risk of subsequent long-term clinical depression compared to women who carry an unintended first pregnancy to term.

Among the key findings: the association between abortion and subsequent depression persists over at least 8 years. Many other studies show similar findings, and more.

Post-abortion syndrome is a treatable disorder if promptly diagnosed by a trained provider and attended to with a personalized regimen of care including social support, counseling, therapy, medication, and if necessary, hospitalization.

A number of women who have undergone abortions also experience debilitating physical health problems such as infection, cervical tearing, infertility, excess bleeding, and death. Thus, the bill also seeks to study the physical repercussions of abortion as well.

After 29 years of legalized abortion, it is time that we recognize the suffering that so many women have undergone by carefully examining the women's emotional and physical health following her abortion decision. We have a responsibility to understand what they are going through and how we can appropriately diagnose and treat them.

It is my sincere hope that we can pass this bill and give our support to potentially millions of women across the country who suffer alone with their private and profound guilt and depression. Many women who choose abortion have previously aborted. If we are ever going to end abortion in America, we must reach out with love and compassion to women who deeply regret their decision to abort their children, not only to encourage them through their present struggles, but also to help them so they will not choose abortion for themselves again in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2271

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 ''Post-Abortion Support and Services Act''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) About 3,000,000 women per year in the United States have an unplanned or unwanted pregnancy, and approximately 1,186,000 of these pregnancies end in elective abortion.

(2) Abortion can have severe and long-term effects on the mental and emotional well-being of women. Women often experience sadness and guilt following abortions with

no one to console them. They may have difficulty in bonding with new babies, become overprotective parents, or develop problems in their relationships with their spouses. Problems such as eating disorders, depression, and suicide attempts have also been traced to past abortions.

(3) Negative emotional reactions associated with abortion include, depression, bouts of crying, guilt, intense grief or sadness, emotional numbness, eating disorders, drug and alcohol abuse, suicidal urges, anxiety and panic attacks, anger, rage, sexual problems or promiscuity, lowered self esteem, nightmares and sleep disturbances, flashbacks, and difficulty with relationships.

(4) Women who aborted a first pregnancy are four times more likely to report substance abuse compared to those who suffered a natural loss of their first pregnancy, and are five times more likely to report subsequent substance abuse than women who carried to term.

(5) Research shows that the more women attempt to cope with abortion using means of avoidance, mental disengagement, or denial, the more likely the women are to report post-abortion distress, intrusive thoughts, and dissatisfaction.

(6) Women who experience a lack of social support and strong feelings of ambivalence are statistically more likely to suffer severe negative emotional reactions to an abortion.

(7) Depression and other maladjustments to abortion can be prolonged by the failure of the medical community, loved ones, and society to recognize the complexity of post-abortion reactions.

(8) Many women submit to an abortion in violation of their own moral beliefs or maternal desires in order to satisfy the demands of others.

(9) Women who submit to an abortion because of social pressure are more likely to suffer from psychological distress in subsequent years.

(10) Post-abortion depression is a treatable disorder if promptly diagnosed by a trained provider and attended to with a personalized regimen of care including social support, therapy, medication, and when necessary, hospitalization.

(11) While there have been many studies regarding the emotional aftermath of abortion, very little research has been sponsored by the National Institutes of Health.

TITLE I—RESEARCH ON POST-ABORTION DEPRESSION AND PSYCHOSIS

SEC. 101. EXPANSION AND INTENSIFICATION OF ACTIVITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.

(a) IN GENERAL.—

(1) POST-ABORTION CONDITIONS.—The Secretary of Health and Human Services, acting through the Director of NIH and the Director of the National Institute of Mental Health (in this section referred to as the ''Institute''), shall expand and intensify research and related activities of the Institute with respect to post-abortion depression and post-abortion psychosis (in this section referred to as ''post-abortion conditions'').

(2) ADDITIONAL CONDITIONS.—In addition to the post-abortion conditions under paragraph (1), the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall expand and intensify research and related activities of the National Institutes of Health with respect to the physical side effects of having an abortion, including infertility, excessive bleeding, cervical tearing, infection, and death.

(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Directors under subsection (a) with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to post-abortion conditions.

(c) PROGRAMS FOR POST-ABORTION CONDITIONS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the causes of, and to find a cure for, post-abortion conditions. Activities under such subsection shall include conducting and supporting the following:

(1) Basic research concerning the etiology of the conditions.

(2) Epidemiological studies to address the frequency and natural history of the conditions and the differences among racial and ethnic groups with respect to the conditions.

(3) The development of improved diagnostic techniques.

(4) Clinical research for the development and evaluation of new treatments, including new biological agents.

(5) Information and education programs for health care professionals and the public.

(d) LONGITUDINAL STUDY.—

(1) IN GENERAL.—The Director of the Institute shall conduct a national longitudinal study to determine the incidence and prevalence of cases of post-abortion conditions, and the symptoms, severity, and duration of such cases, toward the goal of more fully identifying the characteristics of such cases and developing diagnostic techniques.

(2) REPORT.—Beginning not later than 3 years after the date of the enactment of this Act, and periodically thereafter for the duration of the study under paragraph (1), the Director of the Institute shall prepare and submit to the Congress reports on the findings of the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 2002 through 2006.

TITLE II—DELIVERY OF SERVICES REGARDING POST-ABORTION DEPRESSION AND PSYCHOSIS

SEC. 201. ESTABLISHMENT OF PROGRAM OF GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this title referred to as the ''Secretary'') shall, in accordance with this title, make grants to provide for projects for the establishment, operation, and coordination of effective and cost-efficient systems for the delivery of essential services to individuals with post-abortion depression or post-abortion psychosis (referred to in this section as a ''post-abortion condition'') and their families.

(b) RECIPIENTS OF GRANTS.—A grant under subsection (a) may be made to an entity only if the entity—

(1) is a public or nonprofit private entity that may include a State or local government, a public or nonprofit private hospital, a community-based organization, a hospice, an ambulatory care facility, a community health center, a migrant health center, a homeless health center, or another appropriate public or nonprofit private entity; and

(2) had experience in providing the services described in subsection (a) before the date of the enactment of this Act.

(c) CERTAIN ACTIVITIES.—To the extent practicable and appropriate, the Secretary shall ensure that projects under subsection (a) provide services for the diagnosis and management of post-abortion conditions. Activities that the Secretary may authorize for such projects may also include the following:

(1) Delivering or enhancing outpatient and home-based health and support services, including case management, screening and comprehensive treatment services for individuals with or at risk for post-abortion conditions, and delivering or enhancing support services for their families.

(2) Improving the quality, availability, and organization of health care and support services (including transportation services, attendant care, day or respite care, and providing counseling on financial assistance and insurance) for individuals with post-abortion conditions and support services for their families.

(d) INTEGRATION WITH OTHER PROGRAMS.—To the extent practicable and appropriate, the Secretary shall integrate the program under this title with other grant programs carried out by the Secretary, including the program under section 330 of the Public Health Service Act.

(e) LIMITATION ON AMOUNT OF GRANTS.—A grant under subsection (a) for any fiscal year may not be made in an amount exceeding $100,000.

SEC. 202. CERTAIN REQUIREMENTS.

A grant may be made under section 201 only if the applicant involved makes the following agreements:

(1) Not more than 5 percent of the grant will be used for administration, accounting, reporting, and program oversight functions.

(2) The grant will be used to supplement and not supplant funds from other sources related to the treatment of post-abortion conditions.

(3) The applicant will abide by any limitations deemed appropriate by the Secretary on any charges to individuals receiving services pursuant to the grant. As deemed appropriate by the Secretary, such limitations on charges may vary based on the financial circumstances of the individual receiving services.

(4) The grant will not be expended to make payment for services authorized under section 201(a) to the extent that payment has been made, or can reasonably be expected to be made, with respect to such services—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(5) The applicant will, at each site at which the applicant provides services under section 201(a), post a conspicuous notice informing individuals who receive the services of any Federal policies that apply to the applicant with respect to the imposition of charges on such individuals.

SEC. 203. TECHNICAL ASSISTANCE.

The Secretary may provide technical assistance to assist entities in complying with the requirements of this title in order to make such entities eligible to receive grants under section 201.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this title, there is authorized to be appropriated $300,000 for each of fiscal years 2002 through 2006.●

By Mr. CORZINE:

S. 2313. A bill to suspend temporarily the duty on europium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2314. A bill to suspend temporarily the duty on yttrium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2315. A bill to suspend temporarily the duty on 3-sulfinobenzoic acid; to the Committee on Finance.

• Mr. CORZINE. Mr. President, I rise today to introduce three bills to temporarily suspend duties on the importation of certain chemicals used by manufacturers in my State.

According to informational provided to my office, none of these chemicals are produced in the United States. Therefore, the suspension of the duties will not hurt any domestic chemical companies. In addition, suspension of these duties will not cost the US government more than $500,000 in revenue annually. It is my understanding that the Commerce Department and the International Trade Commission will verify that each of the chemicals for which I am requesting duty suspension meets these standards.

Mr. President, it makes little sense to impose duties on chemicals that are needed by American producers and that are not available from domestic sources. Such duties only hurt American businesses and consumers. In the case of these chemicals, companies in my State of New Jersey rely on these chemicals, and employ many New Jerseyans. The suspension of duties should strengthen these New Jersey businesses and the State's economy, and reduce costs to consumers.

I hope my colleagues will support the legislation.•

By Ms. LANDRIEU:

S. 2316. A bill to make technical and conforming changes to provide for the enactment of the Independence of the Chief Financial Officer Establishment Act of 2001, to establish a reporting event notification system to assist Congress and the District of Columbia in maintaining the financial stability of the District government and avoiding the initiation of a control period, to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Governmental Affairs.

• Ms. LANDRIEU. Mr. President, today I am introducing legislation to help continue the District of Columbia's fiscal resurgence. The District of Columbia Fiscal Integrity Act will give the District's Chief Financial Officer, CFO, authority to manage personnel, procurement practices, and to maintain independent control over the budget of the Office of the Chief Financial Officer. This bill was introduced in the House by Congresswoman ELEANOR HOLMES NORTON and Congresswoman CONNIE MORELLA. I appreciate their leadership on this issue and I am pleased to join with them in introducing this legislation here in the Senate.

As my colleagues know, from 1995 to 2000, a Control Board oversaw management of the District of Columbia in an attempt to reform the city's finances and administration. One of the key features of that reform was the establishment of a strong Chief Financial Officer for the District with wide-ranging authority over the fiscal management of the city. That model worked. The city balanced its budget, restored its investment bond rating, and improved many city services. As a result, the District met the requirements set forth by the Control Board Act and today the elected representatives of the District of Columbia are in charge and doing a great job. They do not want the Control Board to come back on their watch and neither do I.

It is critical that the Senate work its will by marking up and passing this legislation as quickly as possible. When the Control Board went out of business, some of the Chief Financial Officer's authorities lapsed, but his responsibility for the District's financial management was not put on hold. The Congress provided temporary authority for the CFO in the FY 2002 District of Columbia Appropriations Act to continue the smooth operation of the City, but this temporary authority will expire at the end of June this year. Congress must fulfill its responsibility to the District of Columbia by ensuring that local leaders have the authority and resources to maintain and promote the city's growth. I encourage the Government Affairs Committee to begin their work right away.

In addition to restoring some of the authorities the CFO previously exercised during the Control Board era, this bill establishes an early warning system, implemented by the CFO, to examine the city's financial management and the surrounding economic environment and determine whether the city's fiscal integrity is at risk. Should the CFO determine that trouble is on the horizon, the Mayor must develop an action plan to respond to the problem. This unique fiscal management tool will ensure accountability in how the District manages its finances.

Mr. President, in the past the congressional schedule has often interfered with the smooth operations of the District. Like the Federal Government, the District Government's fiscal year begins on October 1. We, the Congress, have the authority to approve the District's budget—a budget derived from locally-generated tax dollars. We rarely do that before the start of the fiscal year, in fact one or two months often go by before we pass the District's budget. This delay creates a great deal of uncertainty for District officials in their programming and financial planning.

To remedy this situation, this legislation establishes budget autonomy for the District of Columbia beginning with fiscal year 2004. The local budget would become effective once it has been approved by the City Council and signed by the Mayor. The Congress will retain the authority to approve the Federal funding now contained in the D.C. Appropriations bill and will continue its general oversight of the District. We can still pass general provisions governing city operations and we can still hold hearings, but this bill will ensure that Congress' schedule will not hamstring the smooth operation of the District.

Mr. President, the Mayor and the City Council have worked very hard to restore fiscal integrity to the District Government, as well as the people's faith in that government. The District is enjoying a renaissance. Once a fiscal and management nightmare, the city has turned its economic ship around. When once the city was ruled by the Control Board, today the accountable authority is vested in officials elected by the District's citizens. A rampant crime rate chased citizens from District neighborhoods into the suburbs, now people are coming back. Property values are rising, new businesses are opening, and the city is working to beautify the Anacostia waterfront. This legislation will continue this transformation by maintaining the strong independence of the Chief Financial Officer and will demonstrate Congress's confidence in he District's elected leadership and its citizens by giving them greater control over their local budget. I urge my colleagues to support this legislation. The Congress has a Constitutional responsibility to the District of Columbia, now is the time to support the city and ensure that locally-elected leaders have the necessary tools for success.•

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. KENNEDY, and Mr. KERRY):

S. 2317. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

• Mr. DURBIN. Mr. President, I am honored to rise today to introduce the Joseph Moakley Memorial Fire Safe Cigarette Act of 2002. Joe Moakley started his effort to require less fire-prone cigarettes in 1979 and championed this issue until his death this past May. It is time to finish what he started. My colleagues Senators BROWNBACK, KENNEDY, and KERRY join me in introducing this legislation to solve a serious fire safety problem, namely, fires that are caused by cigarettes.

The statistics regarding cigarette-related fires are startling. Cigarette-ignited fires accounted for an estimated 140,800 fires in the United States. Such fires cause more than 900 deaths and 2,400 injuries each year. More than $400 million in property damage reported is due to a fire caused by a cigarette. According to the National Fire Protection Association, one out of every four fire deaths in the United States are attributed to tobacco products—by far the leading cause of civilian deaths in fires. Overall, the Consumer Product Safety Commission estimates that the cost of the loss of human life and personal property from not having a fire-safe cigarette standard is approximately $4.6 billion per year.

In my State of Illinois, cigarette-related fires have also caused too many senseless tragedies. In 1998 alone, the most recent year for which we have

data, there were more than 1,700 cigarette-related fires, of which more than 900 were in people's homes. These fires led to 109 injuries and 8 deaths. Property losses resulting from those fires were estimated at $10.4 million.

Tobacco companies spend billions on marketing and learning how to make cigarettes appealing to kids. It is not unreasonable to ask those same companies to invest in safer cigarette paper to make their products less likely to burn down a house.

A Technical Study Group, TSG, was created by the Federal Cigarette Safety Act in 1984 to investigate the technological and commercial feasibility of creating a self-extinguishing cigarette. This group was made up of representatives of government agencies, the cigarette industry, the furniture industry, public health organizations and fire safety organizations. The TSG produced two reports that concluded that it is technically feasible to reduce the ignition propensity of cigarettes.

The technology is in place now to begin developing a performance standard for less fire prone cigarettes. The manufacture of less fire-prone cigarettes may require some advances in cigarette design and manufacturing technology, but the cigarette companies have demonstrated their capability to make cigarettes of reduced ignition propensity with no increase in tar, nicotine or carbon monoxide in the smoke. For example, six current commercial cigarettes have been tested which already have reduced ignition propensity. Furthermore, the overall impact on other aspects of the United States Society and economy will be minimal. Thus, it may be possible to solve this problem at costs that are much less than the potential benefits, which are saving lives and avoiding injuries and property damage.

The Joseph Moakley Memorial Fire Safe Cigarette Act requires Consumer Product Safety Commission to promulgate a fire safety standard, specified in the legislation, for cigarettes. Eighteen months after the legislation is enacted, the Consumer Product Safety Commission, CPSC, would issue a rule creating a safety standard for cigarettes. Thirty months after the legislation is enacted, the standards would become effective for the manufacture and importation of cigarettes. The CPSC would also have the authority to regulate the ignition propensity of cigarette paper for roll-your-own tobacco products.

The standard may be modified if new testing methodology enhances the fire-safety standard. It may also be modified for cigarettes with unique characteristics that cannot be tested using the specified methodology if the Commission determines that the proposed testing methodology and acceptance criterion predict an ignition strength for such cigarettes.

The Act gives the Consumer Product Safety Commission authority over cigarettes only for purposes of implementing and enforcing compliance with this Act and with the standard promulgated under the Act. It also allows states to pass more stringent fire-safety standards for cigarettes.

The Joseph Moakley Memorial Fire Safe Cigarette Act is supported by more than 25 public health groups including the American Cancer Society, the Campaign for Tobacco Free Kids and the American Academy of Pediatrics. It has been endorsed by the Congressional Fire Services Institute and its 42 member organizations. Tobacco giant Phillip Morris is also supporting the bill.

While the number of people killed each year by fires is dropping because of safety improvements and other factors, too many Americans are dying because of a product that could be less likely to catch fire if simple changes were made. Cigarettes may be less likely to cause fire if they were thinner, more porous or the tobacco were less dense. These common-sense changes could help prevent an all-too-common cause of fires.

When Joe Moakley set out more than two decades ago to ensure that the tragic cigarette-caused fire that killed five children and their parents in Westwood, Massachusetts was not repeated, he made a difference. He introduced three bills and passed two of them. One commissioned a study that concluded it was technically feasible to produce a cigarette with a reduced propensity to start fires. The second required that the National institute of Standards and Technology develop a test method for cigarette fire safety, and the last and final bill, the Fire-Safe Cigarette Act of 1999, mandates that the Consumer Product Safety Commission use this knowledge to regulate cigarettes with regard to fire safety.

Today we are here to reintroduce Moakley's bill and to accomplish what he set out to do. I hope that the Commerce Committee will consider this legislation expeditiously and that my colleagues will join me in supporting this effort. Joe waited long enough. He didn't have more time. Let's get this done for him.●

By Mr. HARKIN (for himself, Mr. KENNEDY, Ms. MIKULSKI, and Mr. DODD):

S. 2328. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection, related to maternal morbidity and mortality; to the Committee on Health, Education, Labor, and Pensions.

● Mr. HARKIN. Mr. President, over the last decade there has been a significant recognition of the importance and increase in funding of women's health research, including the establishment of Offices of Women's Health throughout various government agencies. Women's health issues and women, as participants, are now routinely included in research studies.

Despite this progress, many gaps still exist. In particular, there is a troubling lack of research on pregnancy-related health issues. Too often we take pregnancy for granted; we do not view pregnancy as a woman's health issue with short and long term health consequences.

Safe motherhood is a woman's ability to have a safe and healthy pregnancy and delivery. Of the 4 million women who give birth in the U.S. each year, over one-third—or one out of every 3—have a pregnancy-related complication before, during, or after delivery. These complications may cause long-term health problems or even death. Unfortunately, the causes and treatments of pregnancy-related complications are largely unknown and understudied.

If fact, the United States ranks only 20th in maternal mortality rates out of 49 developed countries—that is barely better than the 50th percentile, behind Cyprus, Singapore and Malta. Every day, two to there women die from pregnancy related complications. And despite the fact that maternal mortality was targeted in 1987 as part of Healthy People 2000, the maternal mortality rate in this country has not decreased in twenty years.

The scariest part of this problem is we can't answer the most basic questions—what causes the complications, what can we do to prevent them, and how can we treat them?

One example of this problem is preeclampsia, or high blood pressure. Yes, we know some indicators that place some women at greater risk than others for this complication. And yes, we know some steps that can be taken to reduce a women's risk. But we know shamefully little, with the exception of inducing labor, of how to really prevent or treat this problem. Yet 5 percent of all pregnancies are affected by this complication, which can cause blindness or even death and there has been a 40% increase in the incidence of preeclampsia over the last 10 years.

Likewise, we know almost nothing about which prescription drugs are safe for the fetus and effective for the mother. Most prescription drugs women take during pregnancy are necessary to maintain health. But only 1% of FDA approved drugs have been shown in controlled studies to show no risk to pregnant women and their babies. And 80% of FDA approved drugs lack adequate scientific evidence about use in pregnancy. That means that pregnant women are essentially forced

to take these medications with little or no knowledge about their impact on the fetus.

Of course, we don't want pregnant women placed at risk by putting them in early stage clinical trials. But the fact is that pregnant women with chronic diseases, such as diabetes, asthma, or epilepsy, need to take medication to maintain their health and support the growth of the fetus. And even pregnant women who don't have chronic health conditions need across to safe and effective prescription drugs.

And while people in Washington tend to throw around statistics to make a point, it is important to remember that behind each of these statistics is a real person and family. And yesterday, I had the opportunity to talk to a group of moms from my State of Iowa.

Without exception, these moms talked about their frustration with a health care system that continues to fail to meet some of the most basic needs of pregnant women. They all rely on a group call Sidelines, that provides support and guidance to pregnant women on bed rest. While it is great that a group like Sidelines is there for our mom's, sisters, and daughters, it is shameful that there isn't more accurate and more widely available information to women and their providers.

That is why earlier today, I, along with some of my colleagues, introduced the Safe Motherhood Act for Research and Treatment, or, SMART Mom Act. The SMART Mom Act will address these concerns by: Increasing research and data collection to learn how to prevent, treat, and cure pregnancy related complications; providing comprehensive information to pregnant women, practitioners, and the public; and, improving information about medication and medical device for pregnant women.

Pregnancy is a natural and wonderful occurrence in a woman's life. The SMART Mom Act takes a critical step towards ensuring pregnancies and healthy outcomes for America's women.●

By Mr. BREAUX (for himself, Mr. SMITH of Oregon, Mr. HOLLINGS, and Mr. MCCAIN):

S. 2329. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

● Mr. BREAUX. Mr. President, I am pleased to rise today to introduce the Ship, Seafarer and Container Security Act, along with my ranking subcommittee member, Senator GORDON, Senators HOLLINGS and MCCAIN. This legislation will be crucial in providing the type of information and analysis that we need to protect the United States from potential acts of terrorism against our Nation through international trade at our seaports. This legislation is the product of field hearings that my Surface Transportation and Merchant Marine Subcommittee held at various seaports around the Nation. This legislation augments the Senate-passed seaport security bill, S. 1214, the Port and Maritime Security Act, and I intend to push for the inclusion of the provisions of this bill in the context of a House-Senate conference on seaport security legislation

The United States has more than 1,000 harbor channels and 25,000 miles of inland, intercoastal, and coastal waterways. These waterways serve 361 ports, and have more than 3,700 terminals handling passengers and cargo. The U.S. marine transportation system each year moves more than 2 billion tons of domestic and international freight, imports 3 billion tons of oil, transports 134 million passengers by ferry, and hosts more than 7 million cruise ship passengers. Of the more than 2 billion tons of freight, the majority of cargo is shipped in huge containers from ships directly onto trucks and railcars that immediately head onto our highways and rail systems. Oceangoing sea containers are a vital artery of the U.S. economy. Indeed, 46 percent of all goods imported into the United States, by value, arrive at our Nation's seaports, mostly in containers, and currently, we are able to physically inspect less than 2 percent of those containers.

Since September 11, we have faced up to the task of securing our seaport and affiliated transportation systems. We are now faced with the need to adapt the most efficient transportation system, with the most secure and efficient system of transportation. To do so, given the complexities of the task, we need to rely on all parties in the transportation chain, not just Federal agencies such as the Coast Guard, Customs and INS, but State law enforcement and the private sector. The enormity of the task we face, and the potential catastrophe we face if we do not strengthen our systems of security, mandates we work on this issue together.

In the aftermath of the terrorist attacks on the World Trade Center and the Pentagon, all U.S. airports were closed. Fortunately, we have a good degree of control of our aviation system and were able to re-exert a degree of normalcy 4 days after the September 11 attacks. If similar attacks had occurred at a U.S. port, I am not sure whether we would be comfortable opening our borders in 4 months.

We obviously have a huge stake in ensuring the protection of our maritime transportation system and respective arteries of business. To this end, I was disappointed the President's budget request did not include any funds to help our State port authorities and private ports secure the type of infrastructure and security equipment necessary to protect this Nation. Not providing funding to our seaports is clearly an unfunded mandate for States that have seaports, such as my home State of Louisiana, and it is our duty as a nation to secure all of our borders, including our maritime borders. This issue simply has to be addressed, and a Federal commitment is required to help secure our maritime boundaries, and secure our international trade.

As I mentioned seaport security is simply too important to disregard. While visiting the Port Everglades in Florida, the Ports of New Orleans, Houston and Charleston, SC, during my subcommittee hearings, I became aware of the incredible role that information plays in security strategy at our seaports. Given the scope of trade and security, it is necessary that we know more about ships, the seafarers on those ships that enter the United States, the systems that we use to secure cargo so it is not tampered with or used for illegal purposes, and also the system we uses to analyze the risks of shipping and to secure our marine environment.

The Ship, Seafarer, and Container Security Act requires certain vessels to carry transponders to allow their positions to be transmitted and tracked and ensure the Coast Guard can track United States and foreign vessels. When an aircraft leaves a U.S. airport we track it wherever it goes, however, when huge oil tankers and hazardous material ships carrying tons and tons of explosive cargoes enter U.S. waters, we do not. This is not right, and not prudent.

My bill will also require the Department of Transportation, DOT, to negotiate an international agreement in 2 years, or if the agreement has not been negotiated within 2 years to submit legislation to Congress, to: One, identify foreign seafarers; two, to provide greater transparency of the ownership of ship registration, so that we can track vessel ownership; and, three, mandate stronger standards for marine containers, and for anti-tampering and locking systems for marine containers. Importantly, the bill would also require DOT to better assess the risks posed by certain vessels, and areas they designate as secure zones, and require recommendations to better secure them.

Last year, the U.S. Coast Guard, identifed over 1,000 Panamanian seamen operating with licenses they fraudulently obtained for a couple of hundred dollars. At the time, it did not create that much of a ruckus, although perhaps it should have, because the primary focus was on the safe operation of the vessel. In the aftermath of September 11, it gives rise to the potential use of the system of maritime licensing to disguise entry into the United States. The system of registration and identification of vessels is equally obtuse. In the aftermath of the bombings of the U.S. Embassies in Mombassa and Dar-El-Salem, we attempted to track the shipping assets of Asama Bin Laden that were used to convey explosives. NATO experts reportedly indicated that tracking banking assets was far easier than identifying the shipping assets owned by the terrorists. I would also mention that, a recent report in Lloyd's List, a business publication

specializing in ocean shipping and international trade, indicated that the Coast Guard interdicted at sea a container ship, with an improperly sealed container filled with nuclear warheads. According to the article, the cargo manifest, indicated that it was carrying explosives, and the master of the vessel was a citizen of Yemen, while the materials turned out to be without fissile materials, it still raises considerable concern about our shipping practices.

This legislation is another critical step in addressing some of the many crucial requirements to ensure our nation has a secure system of international trade, allow us to protect and foster our transportation chain, and provide public safety.

The issues facing our Nation in seaport security are very serious issues. The consequences of relying on our current systems of openness, and with our focus on efficiency could be disastrous. However, at the other end of the spectrum, is being so excessively obsessed with security that we cause the suffocation of trade and business. The system we had in place prior to 9–11 was insufficient. I believe that S. 1214 coupled with the legislation I am introducing will help remedy the flaws of pre- 9–11 security and enhance seaport security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2329

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 ''Ship, Seafarer, and Container Security Act''.

SEC. 2. AUTOMATIC IDENTIFICATION SYSTEM.

(a) IN GENERAL.—When operating in navigable waters of the United States (as defined in section 2101(17a) of title 46, United States Code), the following vessels shall be equipped with an automatic identification system:

(1) Any vessel subject to the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq.).

(2) Any small passenger vessel carrying more than a number of passengers determined by the Secretary of Transportation.

(3) Any commercial towing vessel while towing astern or pushing ahead or alongside, except commercial assistance towing vessels rendering assistance to disabled small vessels.

(4) Any other vessel for which the Secretary of Transportation determines that an automatic identification system is necessary for the safe navigation of the vessel.

(b) REGULATIONS; EFFECTIVE DATE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall initiate a rulemaking to implement subsection (a).

(2) CONTENT.—Regulations promulgated pursuant to that rulemaking—

(A) may, subject to subparagraph (B), include effective dates for the application of subsection (a) to different vessels at different times;

(B) shall require all vessels to which subsection (a) applies to comply with the requirements of subsection (a) no later than December 31, 2004; and

(C) shall be issued in final form before December 31, 2004.

(3) EFFECTIVE DATE NOT DEPENDENT UPON FINAL RULE.—If regulations have not been promulgated in final form under this subsection before December 31, 2004, then subsection (a) shall apply to—

(A) any vessel described in paragraph (1) or (3) of that subsection on and after that date; and

(B) other vessels described in subsection (a) as may be provided in regulations promulgated thereafter.

SEC. 3. UNIQUE SEAFARER IDENTIFICATION.

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negotiation of an international agreement, or amendments to an international agreement that provides for a uniform, comprehensive, international system of identification for seafarers that will enable the United States and other countries to establish authoritatively the identity of any seafarer aboard a vessel within the jurisdiction, including the territorial waters, of the United States or such other country.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete the international agreement negotiation or amendment process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a draft of legislation that, if enacted, would establish a uniform, comprehensive system of identification for seafarers.

SEC. 4. GREATER TRANSPARENCY OF SHIP REGISTRATION.

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negotiation of an international agreement, or the amendment of an international agreement, to provide greater transparency with respect to the registration and ownership of vessels entering or operating in the territorial waters of the United States.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete the international agreement or amendment process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a draft of legislation that, if enacted, would provide for greater transparency with respect to the registration and ownership of vessels operating in international waters.

SEC. 5. INTERNATIONAL AGREEMENT ON CONTAINER INTEGRITY.

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negotiation of an international agreement, or amendments to an international agreement, to establish marine container integrity and anti-tampering standards for marine containers.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete the international agreement negotiation or amendment process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a draft of legislation that, if enacted, would establish marine container integrity and anti-tampering standards.

SEC. 6. COAST GUARD TO DEVELOP RISK-BASED ANALYSIS AND SECURITY ZONE SYSTEM FOR VESSELS.

(a) IN GENERAL.—The Commandant of the Coast Guard shall establish—

(1) a risk-based system for use in evaluating the potential threat to the national security of the United States of vessels entering the territorial waters of the United States; and

(2) a system of security zones for ports, territorial waters, and waterways of the United States.

(b) MECHANISMS AND SYSTEMS CONSIDERATIONS.—In carrying out subsection (a), the Commandant shall consider—

(1) the use of public/private partnerships to implement and enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives within the security zones; and

(2) technological means of enhancing the security within the security zones of ports, territorial waters, and waterways of the United States.

(c) GRANTS.—The Commandant of the Coast Guard may make grants to applicants for research and development of alternative means of providing the protection and security required by this section.

(d) REPORTS.—

(1) INITIAL REPORT.—Within 12 months after the date of enactment of this Act, the Commandant of the Coast Guard shall transmit, in a form that does not compromise security, to the Senate Committee on Commerce, Science, and Transportation and the House of Representative Committee on Transportation and Infrastructure a report that includes—

(A) a description of the methodology employed in evaluating risks to security;

(B) a list of security zones; and

(C) recommendations as to how protection of such vessels and security zones might be further improved.

(2) REPORT ON ALTERNATIVES.—Within 12 months after the Commandant has awarded grants under subsection (c), the Commandant shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representative Committee on Transportation and Infrastructure a report on the results of testing and research carried out with those grants.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Department in which the Coast Guard is operating for the use of the Coast Guard, $1,000,000 for fiscal year 2003 to make grants under subsection (c).●

By Mr. REID:

S. 2333. A bill to convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to introduce this bill, which will convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center adjacent to McCarran International Airport.

This bill transfers a 115-acre parcel from the Clark County Department of Aviation to the University of Nevada at Las Vegas Research Foundation. The Foundation, in turn, will build a research and technology park on the parcel, which has been identified as the best location in the area for this kind of facility.

Nevada will benefit significantly from this bill. As you may know, Las Vegas is the fastest-growing city in the United States. The University of Nevada at Las Vegas needs space to grow. Building this type of research park will also further develop the high-tech industry in the State of Nevada. This is just the kind of thoughtful land planning and development that the Las Vegas Valley needs to ensure that Nevadans are able to maintain the high quality of life that they deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2333

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the University of Nevada, Las Vegas, needs land in the greater Las Vegas area to provide for the future growth of the university;

(2) the proposal by the University of Nevada, Las Vegas, for construction of a research park and technology center in the greater Las Vegas area would enhance the high tech industry and entrepreneurship in the State of Nevada; and

(3) the land transferred to the Clark County Department of Aviation under section 4(g) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346) is the best location for the research park and technology center.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide a suitable location for the construction of a research park and technology center in the greater Las Vegas area;

(2) to provide the public with opportunities for education and research in the field of high technology; and

(3) to provide the State of Nevada with opportunities for competition and economic development in the field of high technology.

SEC. 2. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS RESEARCH FOUNDATION.

(a) CONVEYANCE.—Notwithstanding section 4(g)(4) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2347), the Clark County Department of Aviation may convey, without consideration, all right, title, and interest in and to the parcel of land described in subsection (b) to the University of Nevada at Las Vegas Research Foundation for the development of a technology research center.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of Clark County Department of Aviation land—

(1) consisting of approximately 115 acres;

(2) located in the SW ¼ of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian; and

(3) identified in the agreement entitled ''Interim Cooperative Management Agreement Between the United States Department of the Interior-Bureau of Land Management and Clark County'', dated November 4, 1992.

By Mr. BURNS:

S. 2334. A bill to authorize the Secretary of Agriculture to accept the donation of certain land in the Mineral Hill-Crevice Mountain Mining District in the State of Montana, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

• Mr. BURNS. I am pleased to announce the introduction of the Mineral Hill Historic Mining District Preservation Act of 2002. The purpose of this Act is for the Forest Service to accept a donation from TVX Mineral Hill, Inc., an inholding of approximately 570 acres of private land in the Gallatin National Forest. This inholding overlooks the Northern entrance of Yellowstone National Park and is within well known elk habitat. The donation also includes 194 acres of mineral right underlying federal lands.

This bill provides a win-win situation with benefits for the community, for wildlife, for the company, and for the environment. After a rich and storied history, the Mineral Hill mine is played out and the opportunity to extract minerals has passed.

The property is in very good condition and is being reclaimed in accordance with a reclamation plan approved by the Montana Department of Environmental Quality. The Forest Service has been closely involved during the reclamation planning and implementation processes to make certain that the property will remain in the excellent environmental state it is in today.

As an added guarantee, the United States will also be the beneficiary of a $10 million insurance policy provided by TVX to clean up the site in the unlikely event that hazardous materials are discovered in the future.

The Mineral Hill Mine is located in the historic Jardine Mining District which was established during the 1860s. Many of the buildings at the site go back to that time period. Some of the buildings will be preserved for interpretation purposes and will be available to the public. In addition, the site will be used in cooperation with Montana Tech of the University of Montana for mining and geologic education.

The Mineral Hill property is being donated by TVX to the government without the necessity of a payment. There will be ongoing permits issued by the State of Montana and by EPA for monitoring of water discharge. This bill allows for those permits to be upheld and for the water processes to be maintained. In a letter to my office dated June 25, 2001, the Greater Yellowstone Coalition observed that ''we believe that there would be no adverse impact to the agency and indeed would be a benefit to the public that this donated land is conveyed with the obligation to maintain the NPDES permit already in force.'' This is exactly what the bill provides in Section 11.

I am pleased to say that this is a bill with the support of all key parties. The Forest Service has agreed to the transfer and management of the land and has been actively involved in this process. The Gardiner Chamber of Commerce supports the project, as do the Commissioners of Park County. The Greater Yellowstone Coalition also supports the donation.

Simply put, this legislation is in the public interest. On behalf of the people of Montana, I look forward to its passage.•

By Mr. JOHNSON (for himself, Mr. KERRY, Ms. CANTWELL, Mr. WELLSTONE, Mr. DASCHLE, Mr. BAUCUS, Mr. INOUYE, Mr. BINGAMAN, Ms. STABENOW, and Mrs. CLINTON):

S. 2335. A bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

• Mr. JOHNSON. Mr. President, today, I proudly join with Senator KERRY to introduce the Native American Small Business Development Act of 2002. This important legislation is designed to help American Indians, Alaska Natives, and Native Hawaiians to overcome barriers which inhibit business development and job creation. We greatly appreciate the support of the distinguished Senators who join us in sponsoring the legislation including Senators CANTWELL, WELLSTONE, DASCHLE, BAUCUS, INOUYE, BINGAMAN, STABENOW, and CLINTON. I encourage my colleagues to support this critical legislation.

The communities served by this initiative represent some of the most traditionally isolated, disadvantaged, and underserved populations in our country. Despite the unique and persistent challenges to business development in these areas, many of the supportive services the Federal Government provides to entrepreneurs are not available in these distressed regions. The Native American Small Business Development Act endeavors to develop and disseminate culturally tailored business assistance to assure Native American businesses may secure and sustain long-term success.

Among the achievements included in the bill is the establishment of a statutory office within the U.S. Small Business Administration to focus on concerns specific to Native American populations. The Office of Native American Affairs will serve as an advocate in the SBA for the interests of Native Americans. In addition to administering the Native American Development Program, the Assistant Administrator will consult with Tribal Colleges, Tribal Governments, Alaska Native Corporations and Native Hawaiian Organizations to enhance the development and implementation of culturally specific approaches to support the growth and prosperity of Native American small businesses.

Furthermore, the Act creates the Native American Development Program to provide necessary business development assistance. These services are vital to establish and support small businesses. The Federal Government currently invests to provide these services in communities throughout the

country. It is past time for these services to be integrated into our efforts to promote self-sufficiency and economic development in Indian Country.

In addition, we recognize that in order to remain competitive, businesses and entrepreneurs must be innovative and flexible to change. This legislation reflects the needs of businesses, tribes, and regional interests to pursue unique approaches that will complement local needs and improve the overall quality of services. Two pilot programs are integrated in this approach to promote new and creative solutions to assist American Indians to awaken economic opportunities in their communities.

We must strive to eliminate the impediments that stifle Native American entrepreneurs. By providing business planning services and technical assistance to potential and existing small businesses, we can unlock the capacity for individuals and families to pursue their dreams of business ownership. Not only will these efforts combat poverty and unemployment, but they will bring new services and opportunities to communities that enhance the quality of life for local families.

We must also work to improve access to investment capital to support economic and community development for Native Americans. As the chairman of the Senate Banking Financial Institutions Subcommittee, I am conducting hearings to identify opportunities and techniques which may foster greater access to capital markets for Tribal and Native American entities.

Together, these initiatives will help to turn an important corner as we endeavor to enhance the livelihood of the first Americans.

I would like to thank Congressman UDALL for his leadership in the U.S. House of Representatives in bringing these issues to the forefront and for his cooperation on this historic legislation. I would like to thank Senator JOHN KERRY, chairman of the Senate Small Business and Entrepreneurship Committee, for his hard work on this legislation and his serious commitment to these critical issues. In addition, I would like to express my sincere appreciation for the strong support of the many cosponsors who join us in introducing the bill today.

I encourage the Senate to fully consider this historic legislation and to work expeditiously to enact it into law. The Native American Small Business Development Act will forge a more hopeful and prosperous future for Native American families and communities. By investing in adequate infrastructure and by making the appropriate tools available, we can empower individuals to pursue, achieve, and sustain economic opportunities that enrich their lives and their communities. The American dream will never be fully realized until it becomes a reality for all Americans. This legislation is critical to ensuring that economic growth and economic opportunity permeate the lives of Native American families.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2335

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 ''Native American Small Business Development Act''.

SEC. 2. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following:

"SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Alaska Native' has the same meaning as the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b));

''(2) the term 'Alaska Native corporation' has the same meaning as the term 'Native Corporation' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m));

''(3) the term 'Assistant Administrator' means the Assistant Administrator of the Office of Native American Affairs established under subsection (b);

''(4) the terms 'center' and 'Native American business center' mean a center established under subsection (c);

''(5) the term 'Native American business development center' means an entity providing business development assistance to federally recognized tribes and Native Americans under a grant from the Minority Business Development Agency of the Department of Commerce;

''(6) the term 'Native American small business concern' means a small business concern that is owned and controlled by—

''(A) a member of an Indian tribe or tribal government;

''(B) an Alaska Native or Alaska Native corporation; or

''(C) a Native Hawaiian or Native Hawaiian organization;

''(7) the term 'Native Hawaiian' has the same meaning as in section 625 of the Older Americans Act of 1965 (42 U.S.C. 3057k);

''(8) the term 'Native Hawaiian organization' has the same meaning as in section 8(a)(15) of this Act;

''(9) the term 'tribal college' has the same meaning as the term 'tribally controlled college or university' has in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4));

''(10) the term 'tribal government' has the same meaning as the term 'Indian tribe' has in section 7501(a)(9) of title 31, United States Code; and

''(11) the term 'tribal lands' means—

''(A) all lands within the exterior boundaries of any Indian reservation; and

''(B) all dependent Indian communities.

''(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—

''(1) ESTABLISHMENT.—There is established within the Administration the Office of Native American Affairs, which, under the direction of the Assistant Administrator, shall implement the Administration's programs for the development of business enterprises by Native Americans.

''(2) PURPOSE.—The purpose of the Office of Native American Affairs is to assist Native American entrepreneurs to—

''(A) start, operate, and grow small business concerns;

''(B) develop management and technical skills;

''(C) seek Federal procurement opportunities;

''(D) increase employment opportunities for Native Americans through the start and expansion of small business concerns; and

''(E) increase the access of Native Americans to capital markets.

''(3) ASSISTANT ADMINISTRATOR.—

''(A) APPOINTMENT.—The Administrator shall appoint a qualified individual to serve as Assistant Administrator of the Office of Native American Affairs in accordance with this paragraph.

''(B) QUALIFICATIONS.—The Assistant Administrator appointed under subparagraph (A) shall have—

''(i) knowledge of the Native American culture; and

''(ii) experience providing culturally tailored small business development assistance to Native Americans.

''(C) EMPLOYMENT STATUS.—The Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code, and shall serve as a noncareer appointee, as defined in section 3132(a)(7) of title 5, United States Code.

''(D) RESPONSIBILITIES AND DUTIES.—The Assistant Administrator shall—

''(i) administer and manage the Native American Small Business Development program established under this section;

''(ii) recommend the annual administrative and program budgets for the Office of Native American Affairs;

''(iii) establish appropriate funding levels;

''(iv) review the annual budgets submitted by each applicant for the Native American Small Business Development program;

''(v) select applicants to participate in the program under this section;

''(vi) implement this section; and

''(vii) maintain a clearinghouse to provide for the dissemination and exchange of information between Native American business centers.

''(E) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of—

''(i) Administration officials working in areas served by Native American business centers and Native American business development centers;

''(ii) the Bureau of Indian Affairs of the Department of the Interior;

''(iii) tribal governments;

''(iv) tribal colleges;

''(v) Alaska Native corporations; and

''(vi) Native Hawaiian organizations.

''(c) NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.—

''(1) AUTHORIZATION.—

''(A) IN GENERAL.—The Administration, through the Office of Native American Affairs, shall provide financial assistance to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers in accordance with this section.

''(B) RESOURCE ASSISTANCE.—The Administration may also provide in-kind resource assistance to Native American business centers located on tribal lands. Such assistance may include—

''(i) personal computers;

''(ii) graphic workstations;

''(iii) CD–ROM technology and interactive videos;

''(iv) distance learning business-related training courses;

''(v) computer software; and

''(vi) reference materials.

''(C) USE OF FUNDS.—The financial and resource assistance provided under this subsection shall be used to overcome obstacles impeding the creation, development, and expansion of small business concerns, in accordance with this section, by—

''(i) reservation-based American Indians;

''(ii) Alaska Natives; and

''(iii) Native Hawaiians.

''(2) 5-YEAR PROJECTS.—

''(A) IN GENERAL.—Each Native American business center that receives assistance under paragraph (1)(A) shall conduct 5-year projects that offer culturally tailored business development assistance in the form of—

''(i) financial education, including training and counseling in—

''(I) applying for and securing business credit and investment capital;

''(II) preparing and presenting financial statements; and

''(III) managing cash flow and other financial operations of a business concern;

''(ii) management education, including training and counseling in planning, organizing, staffing, directing, and controlling each major activity and function of a small business concern; and

''(iii) marketing education, including training and counseling in—

''(I) identifying and segmenting domestic and international market opportunities;

''(II) preparing and executing marketing plans;

''(III) developing pricing strategies;

''(IV) locating contract opportunities;

''(V) negotiating contracts; and

''(VI) utilizing varying public relations and advertising techniques.

''(B) BUSINESS DEVELOPMENT ASSISTANCE RECIPIENTS.—The business development assistance under subparagraph (A) shall be offered to prospective and current owners of small business concerns that are owned by—

''(i) American Indians or tribal governments, and located on or near tribal lands;

''(ii) Alaska Natives or Alaska Native corporations; or

''(iii) Native Hawaiians or Native Hawaiian organizations.

''(3) FORM OF FEDERAL FINANCIAL ASSISTANCE.—

''(A) DOCUMENTATION.—

''(i) IN GENERAL.—The financial assistance to Native American business centers authorized under this subsection may be made by grant, contract, or cooperative agreement.

''(ii) EXCEPTION.—Financial assistance under this subsection to Alaska Native corporations or Native Hawaiian organizations may only be made by grant.

''(B) PAYMENTS.—

''(i) TIMING.—Payments made under this subsection may be disbursed—

''(I) in a single lump sum or in periodic installments; and

''(II) in advance or after costs are incurred.

''(ii) ADVANCE.—The Administration may disburse not more than 25 percent of the annual amount of Federal financial assistance awarded to a Native American small business center after notice of the award has been issued.

''(iii) NO MATCHING REQUIREMENT.—The Administration shall not require a grant recipient to match grant funding received under this subsection with non-Federal resources as a condition of receiving the grant.

''(4) CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—A Native American business center may enter into a contract or cooperative agreement with a Federal department or agency to provide specific assistance to Native American and other under-served small business concerns located on or near tribal lands, to the extent that such contract or cooperative agreement is consistent with the terms of any assistance received by the Native American business center from the Administration.

''(5) APPLICATION PROCESS.—

''(A) SUBMISSION OF A 5-YEAR PLAN.—Each applicant for assistance under paragraph (1) shall submit a 5-year plan to the Administration on proposed assistance and training activities.

''(B) CRITERIA.—

''(i) IN GENERAL.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance.

''(ii) PUBLIC NOTICE.—The criteria required by this paragraph and their relative importance shall be made publicly available, within a reasonable time, and stated in each solicitation for applications made by the Administration.

''(iii) CONSIDERATIONS.—The criteria required by this paragraph shall include—

''(I) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of current or potential owners of Native American small business concerns;

''(II) the ability of the applicant to commence a project within a minimum amount of time;

''(III) the ability of the applicant to provide training and services to a representative number of Native Americans;

''(IV) previous assistance from the Small Business Administration to provide services in Native American communities; and

''(V) the proposed location for the Native American business center site, with priority given based on the proximity of the center to the population being served and to achieve a broad geographic dispersion of the centers.

''(6) PROGRAM EXAMINATION.—

''(A) IN GENERAL.—Each Native American business center established pursuant to this subsection shall annually provide the Administration with an itemized cost breakdown of actual expenditures incurred during the preceding year.

''(B) ADMINISTRATION ACTION.—Based on information received under subparagraph (A), the Administration shall—

''(i) develop and implement an annual programmatic and financial examination of each Native American business center assisted pursuant to this subsection; and

''(ii) analyze the results of each examination conducted under clause (i) to determine the programmatic and financial viability of each Native American business center.

''(C) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to renew a grant, contract, or cooperative agreement with a Native American business center, the Administration—

''(i) shall consider the results of the most recent examination of the center under subparagraph (B), and, to a lesser extent, previous examinations; and

''(ii) may withhold such renewal, if the Administration determines that—

''(I) the center has failed to provide any information required to be provided under subparagraph (A), or the information provided by the center is inadequate;

''(II) the center has failed to provide any information required to be provided by the center for purposes of the report of the Administration under subparagraph (E); or

''(III) the information required to be provided by the center is incomplete.

''(D) CONTINUING CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—

''(i) IN GENERAL.—The authority of the Administrator to enter into contracts or cooperative agreements in accordance with this subsection shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

''(ii) RENEWAL.—After the Administrator has entered into a contract or cooperative agreement with any Native American business center under this subsection, it shall not suspend, terminate, or fail to renew or extend any such contract or cooperative agreement unless the Administrator provides the center with written notification setting forth the reasons therefore and affords the center an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

''(E) MANAGEMENT REPORT.—

''(i) IN GENERAL.—The Administration shall prepare and submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an annual report on the effectiveness of all projects conducted by Native American business centers under this subsection and any pilot programs administered by the Office of Native American Affairs.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include, with respect to each Native American business center receiving financial assistance under this subsection—

''(I) the number of individuals receiving assistance from the Native American business center;

''(II) the number of startup business concerns formed;

''(III) the gross receipts of assisted concerns;

''(IV) the employment increases or decreases of Native American small business concerns assisted by the center since receiving funding under this Act;

''(V) to the maximum extent practicable, increases or decreases in profits of Native American small business concerns assisted by the center since receiving funding under this Act; and

''(VI) the most recent examination, as required under subparagraph (B), and the subsequent determination made by the Administration under that subparagraph.

''(7) ANNUAL REPORT.—Each entity receiving financial assistance under this subsection shall annually report to the Administration on the services provided with such financial assistance, including—

''(A) the number of individuals assisted, categorized by ethnicity;

''(B) the number of hours spent providing counseling and training for those individuals;

''(C) the number of startup small business concerns formed, maintained, and lost;

''(D) the gross receipts of assisted small business concerns;

''(E) the number of jobs created, maintained, or lost at assisted small business concerns; and

''(F) the number of Native American jobs created, maintained, or lost at assisted small business concerns.

''(8) RECORD RETENTION.—

''(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

''(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (6)(A) indefinitely.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 2003 through 2007, to carry out the Native American Small Business Development Program, authorized under subsection (c).''.

SEC. 3. PILOT PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) INCORPORATION BY REFERENCE.—The terms defined in section 36(a) of the Small Business Act (as added by this Act) have the same meanings as in that section 36(a) when used in this section.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Small Business Administration.

(3) JOINT PROJECT.—The term 'joint project' means the combined resources and expertise of 2 or more distinct entities at a physical location dedicated to assisting the Native American community;

(b) NATIVE AMERICAN DEVELOPMENT GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award Native American development grants to provide culturally-tailored business development training and related services to Native Americans and Native American small business concerns.

(B) ELIGIBLE ORGANIZATIONS.—The grants authorized under subparagraph (A) may be awarded to—

(i) any small business development center; or

(ii) any private, nonprofit organization that—

(I) has tribal government members, or their designees, comprising a majority of its board of directors;

(II) is a Native Hawaiian organization; or

(III) is an Alaska Native corporation.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds $100,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for not less than a 2-year period and not more than a 4-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit an application to the Administration that contains—

(A) a certification that the applicant—

(i) is a small business development center or a private, nonprofit organization under paragraph (1)(B)(i);

(ii) employs a full-time executive director or program manager to manage the facility; and

(iii) agrees—

(I) to a site visit as part of the final selection process;

(II) to an annual programmatic and financial examination; and

(III) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

(B) information demonstrating that the applicant has the ability and resources to meet the needs, including cultural needs, of the Native Americans to be served by the grant;

(C) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(D) information demonstrating the effective experience of the applicant in—

(i) conducting financial, management, and marketing assistance programs designed to impart or upgrade the business skills of current or prospective Native American business owners;

(ii) providing training and services to a representative number of Native Americans;

(iii) using resource partners of the Administration and other entities, including universities, tribal governments, or tribal colleges; and

(iv) the prudent management of finances and staffing;

(E) the location where the applicant will provide training and services to Native Americans; and

(F) a multiyear plan, corresponding to the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant;

(ii) in the continental United States, the number of Native Americans to be served by the grant; and

(iii) the training and services to be provided to a representative number of Native Americans.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each completed application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of a Native American development grant under this subsection shall annually report to the Administration on the impact of the grant funding, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours spent providing counseling and training for those individuals;

(C) the number of startup small business concerns formed, maintained, and lost;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created, maintained, or lost at assisted small business concerns; and

(F) the number of Native American jobs created, maintained, or lost at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(c) AMERICAN INDIAN TRIBAL ASSISTANCE CENTER GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program, under which the Administration shall award not less than 3 American Indian Tribal Assistance Center grants to establish joint projects to provide culturally tailored business development assistance to prospective and current owners of small business concerns located on or near tribal lands.

(B) ELIGIBLE ORGANIZATIONS.—

(i) CLASS 1.—Not fewer than 1 grant shall be awarded to a joint project performed by a Native American business center, a Native American business development center, and a small business development center.

(ii) CLASS 2.—Not fewer than 2 grants shall be awarded to joint projects performed by a Native American business center and a Native American business development center.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds $200,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for a 3-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit to the Administration a joint application that contains—

(A) a certification that each participant of the joint application—

(i) is either a Native American Business Center, a Native American Business Development Center, or a Small Business Development Center;

(ii) employs a full-time executive director or program manager to manage the center; and

(iii) as a condition of receiving the American Indian Tribal Assistance Center grant, agrees—

(I) to an annual programmatic and financial examination; and

(II) to the maximum extent practicable, to remedy any problems identified pursuant to that examination;

(B) information demonstrating a historic commitment to providing assistance to Native Americans—

(i) residing on or near tribal lands; or

(ii) operating a small business concern on or near tribal lands;

(C) information demonstrating that each participant of the joint application has the ability and resources to meet the needs, including the cultural needs of the Native Americans to be served by the grant;

(D) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(E) information demonstrating the effective experience of each participant of the joint application in—

(i) conducting financial, management, and marketing assistance programs, as described above, designed to impart or upgrade the business skills of current or prospective Native American business owners; and

(ii) the prudent management of finances and staffing; and

(F) a plan for the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant; and

(ii) the training and services to be provided.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of an American Indian tribal assistance center grant under this subsection shall annually report to the Administration on the impact of the grant funding received during the reporting year, and the cumulative impact of the grant funding received since the initiation of the grant, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours of counseling and training provided and workshops conducted;

(C) the number of startup business concerns formed, maintained, and lost;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created, maintained, or lost at assisted small business concerns; and

(F) the number of Native American jobs created, maintained, or lost at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $1,000,000 for each of the fiscal years 2003 through 2006, to carry out the Native American Development Grant Pilot Program, authorized under subsection (b); and

(2) $1,000,000 for each of the fiscal years 2003 through 2006, to carry out the American Indian Tribal Assistance Center Grant Pilot Program, authorized under subsection (c).●

● Mr. KERRY. Mr. President, I am pleased today to join with my colleague, Senator JOHNSON, as well as the cosponsors of our legislation, Senators, CANTWELL, WELLSTONE, DASCHLE, BAUCUS, INOUYE, BINGAMAN, STABENOW, and CLINTON in introducing the Native American Small Business Development Act.

This legislation bears the same name as legislation that passed the House last year, H.R. 2538, which was introduced by Congressman TOM UDALL, a recognized leader in promoting the interests of American Indians. I would like to thank Congressman UDALL for his work in stewarding H.R. 2538 through the House and for his assistance in working with Senator JOHNSON and me in drafting the Senate version of our legislation.

I would also like to thank the National Indian Business Association, the National Center for American Indian Enterprise Development, the Association of Small Business Development Centers, ONABEN, Native American Management Services, Inc., and all of the tribes that met with us or provided information to help in the crafting of this legislation.

The Senate version of the Native American Small Business Development Act, while incorporating the heart of the Udall legislation, is more comprehensive and provides greater assistance to Native American communities. Senator JOHNSON, who serves on the Indian Affairs Committee, and I, as Chairman of the Senate Committee on Small Business and Entrepreneurship, were able to combine our resources in crafting this legislation.

Our desire to fashion a comprehensive assistance package for Native American small businesses stems in no small part from an apparent lack of commitment the Small Business Administration (SBA) has shown to our Native American communities under the Bush Administration.

While I applaud the Bush Administration for responding to congressional requests and including $1 million in the Administration's fiscal year 2003 budget request for Native American outreach, I was disappointed that it did not seek the full level of $2.5 million requested in a letter I sent with my colleagues Senators DASCHLE, WELLSTONE, JOHNSON, BINGAMAN and BAUCUS. Our request specifically sought funding for the SBA's Tribal Business Information Center (TBIC) program, started under the Clinton Administration and designed to address the unique conditions faced by American Indians when they seek to start or expand small businesses.

I do not believe that anyone in this Congress would dispute that economic development in Indian Country has often been difficult to achieve and that one important way to help American Indians who live on reservations is to provide them with assistance to open and run their own small businesses. Helping Native Americans open and run small businesses not only instills a sense of pride in the owner and his or her community, it also provides much-needed job opportunities, as well as other economic benefits.

Although underfunded, the TBIC program has provided assistance to a number of small businesses on Indian reservations. TBICs have the support of the American Indian communities they serve because they provide desperately needed, culturally tailored business development assistance in those communities. The administration should be seeking to strengthen its commitment to programs that assist Native American communities. Unfortunately, the SBA cut off TBIC funding on March 31, 2002, and has not met a request by a bipartisan group of Senators to begin the reprogramming process in order to keep the TBICs open for the remainder of the fiscal year.

The Native American Small Business Development Act will ensure that the SBA's programs to assist Native American Affairs (ONAA) a permanent office, create a statutory grant program, known as the Native American Development grant program, to assist Native Americans, establish two pilot programs to try new means of assisting Native American communities and require Native American communities to be consulted regarding the future of SBA programs designed to assist them. In short, our legislation will ensure that our Native American communities will receive the assistance they need to help start and grow small businesses.

The ONAA, to be headed by an Assistant Administrator, will be responsible for assisting Native Americans and Native American communities to start, operate, and grow small business concerns; develop management and technical skills; seek Federal procurement opportunities; increase employment opportunities through the start and expansion of small business concerns; and increase their access to capital markets.

To be selected to serve as the Assistant Administrator for ONAA, a candidate must have knowledge of Native American cultures and experience providing culturally tailored small business development assistance to Native Americans. Under our legislation, the Assistant Administrator would be statutorily required to consult with Tribal Colleges and Tribal Governments, Alaska Native Corporations (ANC) and Native Hawaiian Organizations (NHO) when carrying out responsibilities under this legislation. The Assistant Administrator for ONAA would be responsible for administering the Native American Development program and the pilot programs created by the Native American Small Business Development Act.

The Native American Development program is designed to be the SBA's primary program for providing business development assistance to Native American communities. To offer this support, the SBA will provide financial and resource assistance to establish and keep Native American Business Centers (NABC) in operation. Financial assistance under the Native American Development program would be available to Tribal Governments and Tribal Colleges. Unlike the SBA's TBIC program, however, ANCs and NHOs would also be eligible for the grants.

NABCs would address the unique conditions faced by reservation-based American Indians, as well as Native Hawaiians and Native Alaskans, in their efforts to create, develop and expand small business concerns. Grant funding would be used by the NABCs to provide culturally tailored financial education assistance, management education assistance, and marketing education assistance.

The first pilot program under the legislation establishes a Native American development grant. This grant is modeled after the Udall legislation and designed to bring the expertise of SBA's Small Business Development Centers (SBDC) to Native American communities. Additionally, any private nonprofit organization, whose board of directors consists of a majority of Tribal Government members or their designees, is an NHO or an ANC, may also apply for the grant. Nonprofits were included in the Senate version thanks to the thoughtful input of Senator Cantwell. Many American Indian communities in Washington State are served by an organization called ONABEN, which provides SBDC-like services to Native American communities in Washington, Oregon, Idaho, and California. Organizations like ONABEN should be encouraged to provide resources to Native American communities, and including them in the grant program available to SBDCs was an important addition to the legislation.

Finally, our legislation establishes a second pilot program to try a unique experiment in Indian County. Grant funding would be made available to establish American Indian Tribal Assistance Centers. These centers will consist of joint entities, such as a partnership between an NABC, a Native American development center (which receive grants from the Department of Commerce) and possibly an SBDC. The purpose of this grant is to bring together experts from various entities to provide culturally tailored business development assistance to prospective and

current owners of small business concerns on or near Tribal Lands.

I would again like to thank Senator JOHNSON and all of the cosponsors of this important legislation to assist our Native American communities. I would also, again, like to thank Congressman UDALL for taking the lead in the House on providing critical assistance for small businesses in Native American communities. I would urge all of my colleagues to cosponsor this legislation to help us fulfill our commitment to Native American communities.●

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 252—EXPRESSING THE SENSE OF THE SENATE REGARDING HUMAN RIGHTS VIOLATIONS IN TIBET, THE PANCHEN LAMA, AND THE NEED FOR DIALOGUE BETWEEN THE CHINESE LEADERSHIP AND THE DALAI LAMA OR HIS REPRESENTATIVES

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 252

Whereas Hu Jintao, Vice President of the People's Republic of China and former Party Secretary of the Tibet Autonomous Region, will visit the United States in April and May of 2002;

Whereas Gedhun Choekyi Nyima was taken from his home by Chinese authorities on May 17, 1995, at the age of 6, shortly after being recognized as the 11th incarnation of the Panchen Lama by the Dalai Lama;

Whereas the forced disappearance of the Panchen Lama violates fundamental freedoms enshrined in international human rights covenants to which the People's Republic of China is a party, including the Convention on the Rights of the Child;

Whereas the use of religious belief as the primary criteria for repression against Tibetans reflects a continuing pattern of grave human rights violations that have occurred since the invasion of Tibet in 1949–50;

Whereas the State Department Country Reports on Human Rights Practices for 2001 states that repressive social and political controls continue to limit the fundamental freedoms of Tibetans and risk undermining Tibet's unique cultural, religious, and linguistic heritage, and that repeated requests for access to the Panchen Lama to confirm his well-being and whereabouts have been denied; and

Whereas the Government of the People's Republic of China has failed to respond positively to efforts by the Dalai Lama to enter into dialogue based on his proposal for genuine autonomy within the People's Republic of China with a view to safeguarding the distinct identity of Tibet and protecting the human rights of the Tibetan people: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Vice President Hu Jintao should be made aware of congressional concern for the Panchen Lama and the need to resolve the situation in Tibet through dialogue with the Dalai Lama or his representatives; and

(2) the Government of the People's Republic of China should—

(A) release the Panchen Lama and allow him to pursue his traditional role at Tashi Lhunpo monastery in Tibet; and

(B) enter into dialogue with the Dalai Lama or his representatives in order to find a negotiated solution for genuine autonomy that respects the rights of all Tibetans.

● Mr. WELLSTONE. Mr. President, I rise today to acknowledge and celebrate the 13th birthday of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama in 1995 as the 11th reincarnation of the Panchen Lama, Tibet's second highest spiritual leader.

As you may know, shortly after the Dalai Lama recognized Gedhun Choekyi Nyima as the Panchen Lama in 1995, the Chinese government abducted him with his family. He was 6 years old at the time. Today, the Panchen Lama remains in detention, and his whereabouts are unknown. For the past 7 years repeated requests from both governments and private humanitarian organizations to meet with the boy have been denied. It is intolerable that the Chinese leadership is using this young child in their efforts to tighten their grip on Tibet. On his 13th birthday, he remains one of the world's youngest political and religious prisoners.

Tibetans are persecuted for their religious beliefs. Prior to the Chinese invasion of 1950, Tibet was a deeply religious society. Religion remains an integral part of the daily lives of Tibetans, and it forms the social fabric connecting them to the land. Since the Chinese take over, religious practice and belief have come at a great cost. Over 6,000 monasteries and sacred places have been destroyed by the Chinese. Religious leaders are incarcerated with great frequency. They are forced to perform ''reeducation labor,'' and often subjected to torture, including electric shock, rape, and other serious forms of abuse.

The Chinese Government continues to exert power over Tibetans by requiring monks to sign a declaration rejecting independence for Tibet, rejecting the Panchen Lama, rejecting and denouncing the Dalai Lama, recognizing the unity of China and Tibet, and ignoring the voice of America. Monks who refuse to accept these terms risk expulsion from their monasteries, or possible incarceration. Fleeing is the only other option for Tibetans who refuse to accept these terms. Historically, up to 3,000 Tibetans enter Nepal each year to escape the conditions.

Religious persecution is not the only type of persecution in Tibet. Tibetans are also subject to political imprisonment. A few months ago, I had the honor of meeting with Ngawang Choephel, a former Fulbright scholar who taught at Middlebury College in Vermont, who was imprisoned in 1995. What was his crime, the crime for which his brave mother labored intensively to have him freed? He was arrested and jailed for espionage while filming a documentary on performing arts in Tibet. After serving more than 6 years, he was released on a medical parole. Regrettably, his story is emblematic of the daily struggles faced by Tibetans.

China has consistently used excessive military force to stifle dissent, which has resulted in untold cases of arbitrary arrests, imprisonment, torture, and execution. Moreover, the Tibetan people are denied the rights to self determination, freedom of speech, assembly, movement, expression and travel, rights enshrined in the Universal Declaration of Human Rights. Population transfers, environmental degradation, forced abortions and sterilizations, and the systematic destruction of the Tibetan language and culture continue unabated.

The problems in Tibet go beyond continuing human rights violations. As long as the Tibetan people are denied the right to self determination, human rights violations and political unrest will continue. For almost 40 years Chinese oppression in Tibet has been met by resistance. However, despite over four decades of force and intimidation, the Tibetan people have proven again and again that they will not succumb. Until a negotiated settlement is reached, Tibet will remain a contentious and potentially destabilizing issue for China. The only way to settle the question of Tibet is for the Chinese leadership to enter into negotiations with the Dalai Lama or his representatives.

Both publicly and privately, the Dalai Lama has stated his willingness to negotiate with the Chinese in his own words, ''anywhere, anytime, and with no pre-conditions.'' Thus far, Beijing has refused to even consider talking to him. Despite the fact that the Dalai Lama is respected worldwide as a spiritual leader and was awarded the Nobel Peace Prize, Chinese Communist party leaders continue to eschew dialogue.

Next week, Chinese President Hu Jintao will visit the United States for the first time. Many believe that he will be the next Premier of China. As you may know, Hu Jintao was the Party Secretary in the Tibet Autonomous Region, TAR, from 1988 to 1992. During his tenure as Party Secretary, Hu Jintao made a name for himself as a tough administrator of Beijing's control mechanisms in Tibet, including the use of deadly force against unarmed Tibetan protestors.

Despite Hu Jintao's record as TAR Party Secretary, I, like some Tibetans, remain hopeful that he can play a positive role in the future. Because Hu has direct experience with the sentiments of Tibetans, he could be more responsive to Tibetan interests than past Chinese leaders. On November 9, 2001, Hu told journalists in Berlin, ''I have been in Tibet for almost 4 years and I am very familiar with the situation.'' It is a positive factor that Hu Jintao knows conditions in Tibet from first-hand experience.

In light of his visit, I am introducing a resolution in the Senate calling for

the release of the Panchen Lama. With this action, I am also hoping to see a serious and substantive discussion of the continued human rights violations in China and Tibet. I will continue to communicate these objectives directly to the administration and the Chinese leadership. Specifically, I strongly believe we should urge the Chinese leadership: To release the Panchen Lama and allow him to pursue his traditional role at Tashi Lhunpo monastery in Tibet; and to enter into dialogue with the Dalai Lama or his representatives in order to find a negotiated solution for genuine autonomy that respects the rights of all Tibetans.

Today, across America Tibetans and their supporters are staging events to draw international attention and support for Tibet. This includes five Tibetan men who are biking from the state capitol in St. Paul, MN, to the Chinese Embassy in Chicago. There, they are calling for the release of the Panchen Lama, the second highest leader in Tibetan Buddhism. Today, I ask that the Senate join their cause. Free the Panchen Lama.

I offer my deepest respect and prayers to them and to the countless brave men and women who have lost their lives in the struggle to bring freedom and democracy to Tibet. It is my hope that the United States will be ''on the right side of history'' by pressing hard for negotiations and a peaceful solution to the Tibetan situation, in accordance with U.N. resolutions.

Finally, I would like to commend the Tibetan people, who under the leadership of the Dalai Lama, have remained steadfast in their commitment to nonviolence. While in other parts of the world individuals seeking freedom have employed any means available, including violence and terrorism, the Tibetans have not altered from the path of nonviolence, even while their homeland, their families, their religion, and their culture are decimated. To turn away from the Tibetan people in their hour of need, would send a message to the world that the international community does not care about what is just. I urge Tibetans to stay the course of nonviolence.●

SENATE RESOLUTION 253—REITERATING THE SENSE OF THE SENATE REGARDING THE RISE OF ANTI-SEMITIC VIOLENCE IN EUROPE

Mr. SMITH of Oregon (for himself, Mrs. CLINTON, Mr. SCHUMER, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 253

Whereas many countries in Europe are protectors of human rights and have stood as shining examples of freedom and liberty to the world;

Whereas freedom of religion is guaranteed by all Organization for Security and Cooperation in Europe (OSCE) participating states;

Whereas the 1990 Copenhagen Concluding Document declares all participating OSCE States will ''unequivocally condemn'' anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;

Whereas anti-Semitism was one of the most destructive forces unleashed during the last century;

Whereas there has been a startling rise in attacks on Jewish community institutions in cities across Europe in the last 18 months;

Whereas these violent incidents have targeted youth such as an assault on a Jewish teen soccer team in Bondy, France on 4/11/02 and the brutal beating of two Jewish students in Berlin, Germany, the burning of Jewish schools in Creteil and Marseille, France and even the stoning of a bus carrying Jewish schoolchildren;

Whereas attacks on Jewish houses of worship have been reported in many cities including Antwerp, Brussels, and Marseille and as recently as April 22nd an automatic weapon attack on a synagogue in Charleroi, Belgium;

Whereas the statue in Paris of Captain Alfred Dreyfus, who was the victim of anti-Semitic accusations and became a symbol of this prejudice in the last century, was defaced with anti-Jewish emblems;

Whereas the French Ministry of Interior documented hundreds of crimes against Jews and Jewish institutions in France in just the first two weeks of April 2002;

Whereas the revitalization of European right wing movements, such as the strong showing of the National Front party in France's presidential election, reaffirm the urgency for governments to assert a strong public stance against anti-Semitism, as well as other forms of xenophobia and intolerance;

Whereas some government leaders have repeatedly dismissed the significance of these attacks and attributed them to hooliganism and Muslim immigrant youth expressing solidarity with Palestinians;

Whereas the legitimization of armed struggle against Israeli civilians by some governments voting in the UN Commission on Human Rights has emboldened some individuals and organizations to lash out against Jews and Jewish institutions;

Whereas hostility frustration and disaffection over violence in the Middle East must never be permitted to justify personal attacks on Jewish citizens;

Whereas when governments have raised a strong moral voice against anti-Semitism and worked to promote and implement educational initiatives which foster tolerance, we have seen success; and

Whereas, Congress recognizes the vital historical alliance between nations of Europe and the United States and has high regard for the commitment of our allies to fighting discrimination, hatred, and violence on racial, ethnic or religious grounds,

Resolved, (a) That it is the sense of the Senate that Congress calls upon European governments to—

(1) acknowledge publicly and without reservation the anti-Semitic character of the attacks as violations of human rights; and to utilize the full power of its law enforcement tools to investigate the crimes and punish the perpetrators;

(2) decry the rationalizing of anti-Jewish attitudes and even violent attacks against Jews as merely a result of justified popular frustration with the conflict in the Middle East; and

(3) take measures to protect and ensure the security of Jewish citizens and their institutions, many of whom suffered so grievously in Europe in the past century.

(b) Further, it is the sense of the Senate that—

(1) both Congress and the Administration must raise this issue in its bilateral contacts;

(2) the State Department's Annual Country Reports on Human Rights should thoroughly document this phenomenon, not just in Europe but worldwide; and

(3) the Commission on International Religious Freedom should continue to document and report on this phenomenon in Europe and worldwide.

SENATE RESOLUTION 254—DESIGNATING APRIL 29, 2002, THROUGH MAY 3, 2002, AS ''NATIONAL CHARTER SCHOOLS WEEK,'' AND FOR OTHER PURPOSES

Mr. LIEBERMAN (for himself, Mr. GREGG, Mr. CARPER, Mr. HUTCHINSON, and Mr. BAYH) submitted the following resolution; which was considered and agreed to:

S. RES. 254

Whereas charter schools are public schools authorized by a designated public body and operating on the principles of accountability, parental involvement, choice, and autonomy;

Whereas in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico have passed laws authorizing charter schools;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico will have received substantial assistance from the Federal Government by the end of the current fiscal year for planning, startup, and implementation of charter schools since their authorization in 1994 under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

Whereas 34 States, the District of Columbia, and the Commonwealth of Puerto Rico are serving more than 500,000 students in more than 2,431 charter schools during the 2001–2002 school year;

Whereas charter schools can be vehicles for improving student academic achievement for the students who attend them, for stimulating change and improvement in all public schools, and for benefiting all public school students;

Whereas charter schools must meet the same Federal student academic achievement accountability requirements as all public schools, and often set higher and additional goals, to ensure that they are of high quality and truly accountable to the public;

Whereas charter schools assess and evaluate students annually and often more frequently, and charter school student academic achievement is directly linked to charter school existence;

Whereas charter schools give parents new freedom to choose their public school, charter schools routinely measure parental approval, and charter schools must prove their ongoing and increasing success to parents, policymakers, and their communities;

Whereas two-thirds of charter schools report having a waiting list, the average size of such a waiting list is nearly one-half of the school's enrollment, and the total number of students on all such waiting lists is enough to fill another 1,000 average-sized charter schools;

Whereas students in charter schools nationwide have similar demographic characteristics as students in all public schools;

Whereas charter schools in many States serve significant numbers of students from families with lower income, minority students, and students with disabilities, and in a majority of charter schools almost half of the students are considered at risk or are former dropouts;

Whereas charter schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the Nation; and

Whereas charter schools are laboratories of reform and serve as models of how to educate children as effectively as possible: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 29, 2002, through May 3, 2002, as ''National Charter Schools Week'';

(1) honors the 10th anniversary of the opening of the Nation's first charter school;

(2) acknowledges and commends the charter school movement and charter schools, teachers, parents, and students across the Nation for their ongoing contributions to education and improving and strengthening the Nation's public school system;

(3) supports the goals of National Charter Schools Week, an event sponsored by charter schools and charter school organizations across the Nation and established to recognize the significant impacts, achievements, and innovations of the Nation's charter schools; and

(4) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools in communities throughout the Nation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3376. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3377. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3378. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3379. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3380. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

TEXT OF AMENDMENTS

SA 3376. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2007''.

SA 3377. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2007'' and

On page 11, line 9, strike ''2006'' and insert ''2008''.

SA 3378. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; was which ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2006''.

SA 3379. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2006'' and

On page 11, line 9, strike ''2006'' and insert ''2007''.

SA 3380. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, which was ordered to lie on the table; as follows:

On page 307, after line 3, insert the following:

Subtitle E—Rural and Remote Communities

SEC. 941. SHORT TITLE.

This subtitle may be cited as the ''Rural and Remote Community Fairness Act''.

SEC. 942. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a modern infrastructure, including energy-efficient housing, electricity, telecommunications, bulk fuel, waste water and potable water service, is a necessary ingredient of a modern society and development of a prosperous economy;

(2) the Nation's rural and remote communities face critical social, economic and environmental problems, arising in significant measure from the high cost of infrastructure development in sparsely populated and remote areas, that are not adequately addressed by existing Federal assistance programs;

(3) in the past, Federal assistance has been instrumental in establishing electric and other utility service in many developing regions of the Nation, and that Federal assistance continues to be appropriate to ensure that electric and other utility systems in rural areas conform with modern standards of safety, reliability, efficiency and environmental protection; and

(4) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural and remote communities as social, economic and political entities.

(b) PURPOSE.—The purpose of this subtitle is the development and maintenance of viable rural and remote communities through the provision of efficient housing, and reasonably priced and environmentally sound energy, water, waste water, and bulk fuel, telecommunications and utility services to those communities that do not have those services or who currently bear costs of those services that are significantly above the national average.

SEC. 943. DEFINITIONS.

As used in this subtitle:

(1) The term ''unit of general local government'' means any city, county, town, township, parish, village, borough (organized or unorganized) or other general purpose political subdivision of a State, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, the Virgin Islands, and American Samoa, a combination of such political subdivisions that is recognized by the Secretary; and the District of Columbia; or any other appropriate organization of citizens of a rural and remote community that the Secretary may identify.

(2) The term ''population'' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(3) The Term ''Native American group'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(4) The term ''Secretary'' means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

(5) The term ''rural and remote community'' means a unit of local general government or Native American group which is served by an electric utility that has 10,000

or less customers with an average retail cost per kilowatt hour of electricity that is equal to or greater than 150 percent of the average retail cost per kilowatt hour of electricity for all consumers in the United States, as determined by data provided by the Energy Information Administration of the Department of Energy.

(6) The term ''alternative energy sources'' include non-traditional means of providing electrical energy, including, but not limited to, wind, solar, biomass, municipal solid waste, hydroelectric, geothermal and tidal power.

(7) The term ''average retail cost per kilowatt hour of electricity'' has the same meaning as ''average revenue per kilowatt hour of electricity'' as defined by the Energy Information Administration of the Department of Energy.

SEC. 944. AUTHORIZATION OF APPROPRIATIONS.

The Secretary is authorized to make grants to rural and remote communities to carry out activities in accordance with the provisions of the subtitle. For purposes of assistance under section 947, there are authorized to be appropriated $100,000,000 for each of fiscal years 2003 through 2009.

SEC. 945. STATEMENT OF ACTIVITIES AND REVIEW.

(a) STATEMENT OF OBJECTIVES AND PROJECTED USE.—Prior to the receipt in any fiscal year of a grant under section 947 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary of the agency providing funding a final statement of rural and remote community development objectives and projected use of funds.

(b) PUBLIC NOTICE.—In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner—

(1) furnish citizens information concerning the amount of funds available for rural and remote community development activities and the range of activities that may be undertaken;

(2) publish a proposed statement in such manner to afford affected citizens an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;

(3) provide citizens with reasonable access to records regarding the past use of funds received under section 947 by the grantee; and

(4) provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of funds received under section 947 from one eligible activity to another.

The final statement shall be made available to the public, and a copy shall be furnished to the appropriate Secretary. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same. Procedures required in this paragraph are for the preparation and submission of such statement.

(c) PERFORMANCE AND EVALUATION REPORT.—Each grantee shall submit to the appropriate Secretary, at a time determined by the Secretary, a performance and evaluation report, concerning the use of funds made available under section 947, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a) and to the requirements of subsection (b). The grantee's report shall indicate its programmatic accomplishments, the nature of and reasons for any changes in the grantee's program objectives, and indications of how the grantee would change its programs as a result of its experiences.

(d) RETENTION OF INCOME.—

(1) IN GENERAL.—Any rural and remote community may retain any program income that is realized from any grant made by the Secretary under section 947 if—

(A) Such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and

(B) such unit of general local government has agreed that it will utilize program income for eligible rural and remote community development activities in accordance with the provisions of this title.

(2) EXCEPTION.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the subsection creates an unreasonable administrative burden on the rural and remote community.

SEC. 946. ELIGIBLE ACTIVITIES.

(a) ACTIVITIES INCLUDED.—Eligible activities assisted under this subtitle may include only—

(1) weatherization and other cost-effective energy-related repairs of homes and other buildings;

(2) the acquisition, construction, repair, reconstruction, or installation of reliable and cost-efficient facilities for the generation, transmission or distribution of electricity, and telecommunications, for consumption in a rural and remote community or communities;

(3) the acquisition, construction, repair, reconstruction, remediation or installation of facilities for the safe storage and efficient management of bulk fuel by rural and remote communities, and facilities for the distribution of such fuel to consumers in a rural or remote community;

(4) facilities and training to reduce costs of maintaining and operating generation, distribution or transmission systems to a rural and remote community or communities;

(5) the institution of professional management and maintenance services for electricity generation, transmission or distribution to a rural and remote community or communities;

(6) the investigation of the feasibility of alternate energy sources for a rural and remote community or communities;

(7) acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water or waste water service;

(8) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for eligible rural and remote community development activities; and

(9) activities necessary to develop and implement a comprehensive rural and remote development plan, including payment of reasonable administrative costs related to planning and execution or rural and remote community development activities.

(b) ACTIVITIES UNDERTAKEN THROUGH ELECTRIC UTILITIES.—Eligible activities may be undertaken either directly by the rural and remote community, or by the rural and remote community through local electric utilities.

SEC. 947. ALLOCATION AND DISTRIBUTION OF FUNDS.

For each fiscal year, of they amount approved in an appropriation act under section 903 for grants in any year, the Secretary shall distribute to each rural and remote community which has filed a final statement of rural and remote community development objectives and projected use of funds under section 945, an amount which shall be allocated among the rural and remote communities that filed a final statement of rural and remote community development objectives and projected use of funds under section 945 proportionate to the percentage that the average retail price per kilowatt hour of electricity for all classes of consumers in the rural and remote community exceeds the national average retail price per kilowatt hour for electricity for all consumers in the United States, as determined by data provided by the Department of Energy's Energy Information Administration. In allocating funds under this section, the Secretary shall give special consideration to those rural and remote communities that increase economies of scale through consolidation of services, affiliation and regionalization of eligible activities under this title.

SEC. 948. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:

(c) RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities to—

''(1) a unit of local government of a State or territory; or

''(2) an Indian tribe or Tribal College or University as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

''(d) GRANT CRITERIA.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.

''(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to renewable energy facilities.

''(f) DEFINITION.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(g) AUTHORIZATION.—For the purpose of carrying out subsection (c), there are authorized to be appropriated to the Secretary $20,000,000 for each of the seven fiscal years following the date of enactment of this subsection.''.

SEC. 949. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $5,000,000 for each of fiscal year 2003 through 2009 to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for the purposes of funding the power cost equalization program.

SEC. 950. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced technology capabilities is a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;

(B) the Nation's rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that suffer from low per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs; and

(C) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.

(2) PURPOSE.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Native American groups in rural areas with excessively high rates of outmigration and low per capital income levels.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''eligible unit of general local government'' means a unit of general local government that is the governing body of a rural recovery area.

(2) ELIGIBLE INDIAN TRIBE.—The term ''eligible Indian tribe'' means the governing body of an Indian tribe that is located in a rural recovery area.

(3) GRANTEE.—The term ''grantee'' means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.

(4) NATIVE AMERICAN GROUP.—The term ''Native American group'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered en eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(5) RURAL RECOVERY AREA.—The term ''rural recovery area'' means any geographic area represented by a unit of general local government or a Native American group—

(A) the borders of which are not adjacent to a metropolitan area;

(B) in which—

(i) the population outmigration level equals or exceeds 1 percent over the most recent five year period, as determined by the Secretary of Housing and Urban Development; and

(ii) the per capita income is less than that of the national nonmetropolitan average; and

(C) that does not include a city with a population of more than 15,000.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means any city, county, town, township, parish, village, borough (organized or unorganized), or other general purpose political subdivision of a State; Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; and the District of Columbia.

(B) OTHER ENTITIES INCLUDED.—The term also includes a State or a local public body or agency, community association, or other entity, that is approved by the Secretary for the purpose of providing public facilities or services to a new community.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

(c) GRANT AUTHORITY.—The Secretary may make grants in accordance with this section to eligible units of general local government, Native American groups and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

(d) ELIGIBILITY REQUIREMENTS.—

(1) STATEMENT OF RURAL DEVELOPMENT OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government, Native American group or eligible Indian tribe—

(A) shall—

(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

(ii) afford residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit comments to the eligible unit of general local government, Native American group or eligible Indian tribe, as applicable, on the proposed statement and the proposed eligible activities, and the overall community development performance of the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable; and

(B) Based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—

(i) a final statement of rural development objectives;

(ii) a description of the eligible activities described in subsection (f) for which a grant received under this section will be used; and

(iii) a certification that the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).

(2) PUBLIC NOTICE AND COMMENT.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government, Native American groups or eligible Indian tribe that receives a grant under this section shall, as soon as practicable after such receipt, provide the residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, with—

(A) a copy of the final statement submitted under paragraph (1)(B);

(B) information concerning the amount made available under this section and the eligible activities to be undertaken with that amount;

(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government, Native American groups or eligible Indian tribe under this section in any preceding fiscal year; and

(D) reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of amounts received under this section from one eligible activity to another.

(e) DISTRIBUTION OF GRANTS.—

(1) IN GENERAL.—In each fiscal year, the Secretary shall distribute to each eligible unit of general local government, Native American groups and eligible Indian tribe that meets the requirements of subsection (d)(1) a grant in an amount in paragraph (2).

(2) AMOUNT.—Of the total amount made available to carry out this section in each fiscal year, the Secretary shall distribute to each grantee the amount equal to the greater of—

(A) the pro rata share of the grantee, as determined by the Secretary, based on the combined annual population out migration level (as determined by the Secretary of Housing and Urban Development) and the per capita income for the rural recovery area served by the grantee; or

(B) $200,000.

(f) ELIGIBLE ACTIVITIES.—Each grantee shall use amounts received under this section for one or more of the following eligible activities, which may be undertaken either directly by the grantee, or by any local economic development corporation, regional planning district, nonprofit community development corporation, or statewide development organization authorized by the grantee:

(1) the acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and wastewater service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park;

(2) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities;

(3) the development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas;

(4) activities necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities; or

(5) affordable housing initiatives.

(g) PERFORMANCE AND EVALUATION REPORT.—

(1) IN GENERAL.—Each grantee shall annually submit to the appropriate Secretary a performance and evaluation report, concerning the use of amounts received under this section.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include a description of—

(A) the eligible activities carried out by the grantee with amounts received under this section, and the degree to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);

(B) the nature of and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement under subsection (d)(1); and

(C) any manner in which the grantee would change the rural development objectives of the grantee as a result of the experience of the grantee in administering amounts received under this section.

(h) RETENTION OF INCOME.—A grantee may retain any income that is realized from the grant, if—

(1) the income was realized after the initial disbursement of amounts to the grantee under this section; and

(2) the—

(A) grantee agrees to utilize the income for 1 or more eligible activities; or

(B) amount of the income is determined by the Secretary to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2003 through 2009.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 10 a.m., in

closed session to receive a briefing on the administration's request for a waiver in the certifications required for the Cooperative Threat Reduction Program and on a recent report from the Joint Atomic Energy Intelligence Committee.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Thursday, April 25, 2002, at 9:30 a.m., on Online Privacy and Protection Act of 2002.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Thursday, April 25, 2002, at 2:30 p.m., on the nomination of Harold D. Stratton to be Commissioner and chairman of the Consumer Product Safety Commission.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 2:30 p.m., to hear testimony on ''Issues in TANF Reauthorization: Helping Hard-to-Employ Families.''

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

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 25, 2002, at approximately 3:30 p.m. (immediately following the first rollcall vote in a series of votes expected to begin at 3:30 p.m.), for a business meeting to consider the nomination of Paul A. Quander, Jr., to be Director of the District of Columbia Court Services and Offender Supervision Agency.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''IDEA: Behavioral Supports in Schools'' during the session of the Senate on Thursday, April 25, 2002, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Thursday, April 25, 2002, in Dirksen room 226 at 10 a.m. The witness list is attached.

Tentative Witness List

Panel I: The Honorable Phil Gramm; the Honorable Kay Bailey Hutchison; the Honorable Fred Thompson; the Honorable Mike DeWine; the Honorable Bill Frist; the Honorable Ralph M. Hall; the Honorable Dave Hobson; the Honorable Harold E. Ford, Jr.; and the Honorable Max Sandlin.

Panel II: Julia Smith Gibbons to be United States Circuit Court Judge for the Sixth Circuit.

Panel III: Leonard E. Davis to be United States District Court Judge for the Eastern District of Texas; David C. Godbey to be United States District Court Judge for the Northern District of Texas; Andrew S. Hanen to be United States District Court Judge for the Southern District of Texas; Samuel H. Mays, Jr., to be United States District Court Judge for the Western District of Tennessee; and Thomas M. Rose to be United States District Court Judge for the Southern District of Ohio.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 25, 2002, at 10 a.m., in Dirksen Building room 226. The agenda is attached.

Agenda

I. Nominations

To be United States Marshal: Gordon Edward Eden, Jr. for the District of New Mexico; David Phillip Gonzales for the District of Arizona; Ronald Henderson for the Eastern District of Missouri; John Lee Moore for the Eastern District of Texas; John Edward Quinn for the Northern District of Iowa; Charles M. Sheer for the Western District of Missouri; and Edward Zahren for the District of Colorado.

II. Bills

S. 2031, Intellectual Property Protection Restoration Act of 2002 [Leahy/Brownback].

S. 2010, Corporate and Criminal Fraud Accountability Act of 2002 [Leahy/Daschle/Durbin].

S. 1974, Federal Bureau of Investigation Reform Act of 2002 [Leahy/Grassley].

S. 848, Social Security Number Misuse Prevention Act of 2001 [Feinstein/Gregg].

S. 1742, Restore Your Identity Act of 2001 [Cantwell].

S. 410, a bill to amend the Violence Against Women Act of 2000 by expanding legal assistance for victims of violence grant program to include assistance for victims of dating violence. [Crapo/Craig/Wellstone/Biden].

III. Resolutions

S. Res. 245, designating the Week of May 5 through May 11, 2002 as ''National Occupational Safety and Health Week'' [Durbin/Brownback/Feingold].

S. Res. 109, a resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day'' [Reid/Edwards].

S. Res. 249, a resolution designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans'' [Hatch].

S. Con. Res. 102, a concurrent resolution proclaiming the week of May 4 through May 11, 2002, as ''National Safe Kids Week'' [Dodd].

IV. Committee Business

Committee Resolution to Authorize Antitrust Subpoena.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 25, 2002, for a hearing on ''Options to Nursing Homes—Is VA Prepared?''

The hearing will take place in SR–418 of the Russell Senate Office Building at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 3:30 p.m., to hold a business meeting.

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

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 2:30 p.m., to conduct an oversight hearing on ''Transit in the 21st Century: Successes and Challenges.''

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

SUBCOMMITTEE ON PUBLIC HEALTH

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on ''Addressing Unmet Needs in Women's Health'' during the session of the Senate on Thursday, April 25, 2002, at 2:30 p.m.

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

PRIVILEGE OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent for interns on the floor from the Senate Finance Committee, Darius Marzec, Stephen Seale, and Elliott Langer, be granted floor privileges during the duration of the energy bill.

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

UNANIMOUS CONSENT—S. 625

Mr. REID. Mr. President, earlier this month, Attorney General Ashcroft announced that the defendant in the case where two women were killed in the Shenandoah National Park will be tried using the Hate Crimes Sentencing Enhancement Act. This is the first time in the history of our country that a Federal murder prosecution will use this provision of the law.

At his press conference announcing the indictments, Attorney General Ashcroft said:

> Criminal acts of hate run counter to what is best in America—our belief in equality and freedom.

He was absolutely right. Americans know that hate crimes injure the victim, the community, and the entire Nation. No one should be attacked simply because of his or her race, religion, gender, physical abilities, or sexual orientation.

As Senator EDWARD KENNEDY has said, until we pass the hate crimes legislation pending before Congress, the promise to aggressively prosecute hate crimes is really an empty promise.

For many years now, we have attempted to pass the hate crimes legislation that Senator KENNEDY and others have introduced. In the fall of 2000, this same bill passed the Senate as an amendment on the Department of Defense authorizations bill. However, despite strong bicameral, bipartisan support, it was stripped out of the conference report, as happens a lot of times.

The need is clear. The support is there. It is time to finish the job we started 2 years ago and pass the Local Law Enforcement Enhancement Act, and pass it quickly.

Therefore, Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may turn to the consideration of S. 625, the Local Law Enforcement Enhancement Act, and that it be considered under the following limitations: There be 4 hours for debate on the bill, equally divided between the chairman and ranking member of the Judiciary Committee; that each leader, or their designee, be permitted to offer two relevant first-degree amendments; that there be a time limitation of 1 hour for debate on each first-degree amendment; that no second-degree amendments be in order prior to a failed motion to table; that if a second-degree amendment is offered, it be relevant to the first degree and be limited to 30 minutes for debate; that upon the disposition of the amendments, and the use or yielding back of the time on the bill, the bill be read a third time, and the Senate vote on passage of the bill, without any intervening action or debate.

Prior to putting this to the Senate, I simply say, we are going to continually offer this unanimous consent request. This unanimous consent request tonight is not going to be approved tonight, and that is too bad. I wish it could be. We need to move this legislation. It is priority legislation for the Senate and, therefore, for this country.

Now, Mr. President, on behalf of the minority, the Republicans, I object. I explained to them I was going to move this forward. As you know, we have worked very long and hard on a number of different matters, and I indicated that it would not be necessary for a Senator to remain to simply object, as I have. But I do say that I am tremendously disappointed that I have to object on behalf of the minority. It is too bad. But we will revisit this in the near future.

The PRESIDING OFFICER. Objection is heard.

TERRORISM REINSURANCE

Mr. REID. Mr. President, I would like to read into the RECORD a letter that is written to the Honorable TOM DASCHLE, majority leader of the Senate; the Honorable TRENT LOTT, Republican leader of the Senate; the Honorable DENNIS HASTERT, Speaker of the House of Representatives; and the Honorable RICHARD GEPHARDT, House Democratic leader. The letter is dated April 15 of this year.

> DEAR CONGRESSIONAL LEADERS: As a result of the event of September 11th, the nation's property and casualty insurance companies have or will pay out losses that will exceed $35 billion dollars. Since the first of January, many insurance companies, self-insurers and states have been faced with a situation where they are unable to spread the risk that they insure because of the unavailability of reinsurance protection. In the event of another major attack, some companies or perhaps a segment of the industry would face insolvency. While most states have approved a limited exclusion for terrorism with a $25 million deductible, exclusions for workers' compensation coverage are not permitted by statute in any state. The present situation poses a grave risk to the solvency of the insurance industry, state insurance facilities, economic development initiatives, and the ability of our states to recover from impacts of the September 11th attacks.
>
> In the months after the attack on our nation, legislation passed in the House and was introduced in the Senate to create a backstop for the insurance industry so they could continue to provide protection to their customers. The Administration has also supported this concept. Currently, there is broad bi-partisan agreement for providing an insurance backstop. Governors believe this is an important goal that should not be inhibited by other issues.
>
> Since late December, the lack of a financial backstop has started to ripple through the economy and will continue to do so. This will further impact the ability of the economy to recover from the current recession.
>
> As Governors, we are facing many critical issues resulting from the September 11th crisis. The emerging problem in insurance coverage only serves to exacerbate our recovery efforts. In view of this, we the undersigned Governors, respectfully urge the Congress to quickly complete its work on the terrorism reinsurance legislation in order to return stability to U.S. insurance markets.
>
> Sincerely,

The letter is signed by Governor Hodges of the State of South Carolina; Governor Johanns of the State of Nebraska; Governor Patton of the State of Kentucky; Governor Martz of the State of Montana; Governor Siegelman of the State of Alabama; Governor Holden of the State of Missouri; Governor Warner of the State of Virginia; Governor McCallum of the State of Wisconsin; Governor Owens of the State of Colorado; Governor Ryan of the State of Illinois; Governor Geringer of the State of Wyoming; Governor Huckabee of the State of Arkansas; Governor King of the State of Maine; Governor Rowland of the State of Connecticut; Governor Bush of the State of Florida; Governor O'Bannon of the State of Indiana; Governor Taft of the State of Ohio; Governor Swift of the State of Massachusetts.

I have been advised that there are many other Governors who would have signed this letter. But as with all things, sometimes it is difficult to get the signatures from all of those Governors.

I personally have had many conversations regarding this issue. I have had conversations with people in the insurance industry. I have had conversations in my office right across the hall with people in the real estate business. I have had many conversations with people in the financial markets across the country, and people from home, people who want to continue one of the largest construction projects we have had in Nevada. It would be a huge mall. It is already half completed. It is a huge facility that they said they will have to stop construction by the first of June if that is not taken care of.

Senator DODD has worked incredibly hard to put together a bill that resolves this serious problem. The White House wants this bill to get to conference with the House, we are told. As I have indicated, these Governors, Democratic and Republican, have called for this action. I have personally spent a lot of time with the Presiding Officer, junior Senator from Florida, who, prior to coming here, was insurance commissioner of one of the largest States in the Union, and who has a very personal knowledge of the insurance industry. The leader has spoken to the Senator from Florida many times more than I have because we have looked to him for leadership on this issue.

I am prepared to move forward with a unanimous consent request relating to this issue. I will do so. The only question at this time is whether the Republican leader is in the building. I wouldn't want him to come from his residence. If he is not here in a reasonable period of time, I will be notified by staff. I will at that time make the consent request.

UNANIMOUS CONSENT REQUEST—H.R. 3210

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may turn to the consideration of H.R. 3210, the terrorism insurance bill, and that it be considered under the following limitations: That the Dodd-Sarbanes-Schumer substitute be agreed to for purposes of original text; that there be a time limitation of 3 hours for debate on the bill and 1 hour for debate on each amendment equally divided in the usual form; that the only amendments in order be relevant to terrorism insurance; that in addition to a managers' amendment, the following be the only amendments in order: Senator HOLLINGS, relevant; Senator NELSON of Florida, relevant; Senator WYDEN, relevant; Senator LEAHY, relevant; that Senator LOTT, or his designee, be permitted to offer four first-degree amendments; that relevant second-degree amendments be in order and limited to 30 minutes for debate equally divided in the usual form; that upon the disposition of these amendments and the conclusion or yielding back of debate time, the bill be read a third time and the Senate vote, without any intervening debate, on final passage of the bill.

I would say that I have been advised, and certainly this has been the case in the past, that Senator LOTT, the Republican leader, would offer a counter to this agreement. I would simply say this is how we would like to go forward. This is what we have been asked to have cleared on our side for a long period of time. We have done that. It is cleared on our side.

I think it is a shame that we are not going to be able to get this approved. I believe this is something that is critical to be done. I am disappointed we will not be able to do that.

As I have indicated in relation to the hate crimes unanimous consent request, the Republicans have indicated that if I did offer this tonight, they would object. As I have said, there is absolutely no reason at this late hour that somebody wait because this would have taken an hour or two for them to wait around, and that was not necessary. So on behalf of the minority, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

(Mr. REID assumed the chair.)

TERRORISM REINSURANCE LEGISLATION

Mr. NELSON of Florida. Mr. President, the hour is late, and I am not going to speak but a couple of minutes, just to lay the predicate for the subject that the distinguished Senator from Nevada has just raised, to which the Republican minority has entered an objection—the bill on providing Federal backup for the terrorism risk the insurance industry would assume.

I am assuming that eventually we will get some agreement to bring this legislation to the floor. I want the record to reflect that it is the considered judgment of this Senator, with the experience I have had in my former public service as insurance commissioner of Florida, that there needs to be some considerable tightening of this legislation, and the majority leader and the assistant majority leader have been kind enough to indicate that I will be protected in order to offer one of the amendments.

That amendment would simply be to make sure the rates are frozen on any further rate hike until the actuarial soundness can be determined of what should be the rate with regard to the terrorism risk. The problem for determining that is the fact that there is no data—very little, except for the data we now have from September 11, and that is the only experience we have, save the earlier decade of the nineties and the attempt at bombing the World Trade Center. Therefore, it is very difficult to determine what is an adequate rate. Because it is difficult, it is also easy to jack the rates up sky high.

So that is the burden I will come to the floor to try to address.

If the Republican minority ever releases their objection to this legislation, then we need to perfect this legislation so that the ratepayers, the consumers, are not paying a much higher rate for the terrorism risk than is justified by actuarial soundness.

I thank the assistant majority leader for presiding so I could come down to make this statement. I look forward to working with the leadership on this issue.

I yield the floor.

(Mr. NELSON of Florida assumed the chair).

DESIGNATING APRIL 30, 2002, AS ''DIA DE LOS NINOS: CELEBRATING YOUNG AMERICANS''

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 355, S. Res. 249.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 249) designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans,'' and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid on the table, and any statements regarding this matter be printed in the RECORD.

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

The resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 249

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''Día de los Niños'' on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas 1 in 4 Americans is projected to be of Hispanic descent by the year 2050, and there are, in 2002, approximately 12.3 million Hispanic children in the United States;

Whereas traditional Hispanic family life centers largely on children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition of children of the United States will provide an opportunity to children to reflect on their future, to articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as ''Día de los Niños: Celebrating Young Americans''—a day to bring together Latinos and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2002, as ''Día de los Niños: Celebrating Young Americans''; and

(2) requests that the President issue a proclamation calling on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including—

(A) activities that center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) activities that are positive, uplifting, and that help children express their hopes and dreams;

(C) activities that provide opportunities for children of all backgrounds to learn about one another's cultures and share ideas;

(D) activities that include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) activities that provide opportunities for families within a community to get acquainted; and

(F) activities that provide children with the support they need to develop skills and confidence, and find the inner strength—the will and fire of the human spirit—to make their dreams come true.

DESIGNATING THE WEEK OF APRIL 29–MAY 3, 2002, AS ''NATIONAL CHARTER SCHOOLS WEEK''

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 254, submitted earlier today by Senators LIEBERMAN, GREGG, CARPER, and HUTCHINSON of Arkansas.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 254) designating April 29, 2002, through May 3, 2002, as ''National Charter Schools Week,'' and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LIEBERMAN. Mr. President, I am proud to join my colleagues, Senators GREGG, CARPER, HUTCHINSON, and BAYH in introducing this resolution today to salute the success of public charter schools in our country and to designate April 29, 2002 through May 3, 2002, as National Charter Schools Week.

This week also marks the 10th anniversary of the opening of the Nation's first charter school. Since the City Academy in St. Paul, MN, was founded, the idea has been catching on.

From seeing several charter schools up close, I am convinced that they represent one of the most promising engines of education reform in the country today. Charter schools grant educators freedom from top-heavy bureaucracies and their red tape in exchange for a commitment to meet high academic standards. In 1994, I was proud to join my colleague Dave Durenberger of Minnesota as sponsor of the bill authorizing the Federal Charter School Grant Program, which Congress passed with strong bipartisan majorities and which has provided more than $750 million since then for planning, startup and implementation of charter schools.

I also think it's important to note in many cases charter schools are built from the ground up by educational entrepreneurs, teachers, parents and local leaders seeking to reinvent the public school and take it back to the future, reconnecting public education to some of our oldest, most basic values—responsibility, opportunity, community, and refocusing its mission on doing what's best for the child instead of what's best for the system.

The results speak for themselves. Today, over 500,000 students attend more than 2,400 charter schools in 34 States, the District of Columbia, and the Commonwealth of Puerto Rico. And, nationwide charters schools have combined waiting lists long enough to fill another 1,000 schools. Parents and educators in turn have given these programs overwhelmingly very high marks. Growing research shows that charter schools are effectively serving diverse populations, particularly many of the disadvantaged and at-risk children that traditional public schools have struggled to educate.

Despite our achievements to date, we cannot rest on our laurels. We must strive to increase options, and replicate successes. Recently, some skeptics have criticized what they see as a slow down in the growth of charter schools and an increase in the number of schools that have closed. Although the hundreds of families on waiting lists clearly refutes these skeptics, we must rightly maintain our vigilance to ensure that charter schools reach our high academic expectations and demand accountability from those that our failing their students.

Unfortunately in too many cases, charter schools are the victims of poorly drafted charter school laws and inadequate funding. I am pleased that many of the reforms enacted under the recently signed No Child Left Behind Act will further strengthen the academic performance of charter schools and help put them on firmer fiscal footing. Recognizing that greater choice and accountability enhances our public education system, I recently urged all American colleges and universities to create charter schools. Parents are crying out for more high-quality public school options that prepare their children for college, and colleges are perfectly positioned to help.

The most remarkable aspect of the charter movement may be that it has managed to bring together educators, parents, community activists, business leaders and politicians from across the political spectrum in support of a common goal to better educate our children by offering more choice, more grassroots control and more accountability within our public schools. I am proud to salute these growing community efforts throughout our nation, and commend these frontline educational innovations for their commitment to expanding educational options for American families to ensure that all children reach high levels of academic achievement.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements thereto be printed in the RECORD.

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

The resolution (S. Res. 254) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 254

Whereas charter schools are public schools authorized by a designated public body and operating on the principles of accountability, parental involvement, choice, and autonomy;

Whereas in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico have passed laws authorizing charter schools;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico will have received substantial assistance from the Federal Government by the end of the current fiscal year for planning, startup, and implementation of charter schools since their authorization in 1994 under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

Whereas 34 States, the District of Columbia, and the Commonwealth of Puerto Rico are serving more than 500,000 students in more than 2,431 charter schools during the 2001-2002 school year;

Whereas charter schools can be vehicles for improving student academic achievement for the students who attend them, for stimulating change and improvement in all public schools, and for benefiting all public school students;

Whereas charter schools must meet the same Federal student academic achievement accountability requirements as all public schools, and often set higher and additional goals, to ensure that they are of high quality and truly accountable to the public;

Whereas charter schools assess and evaluate students annually and often more frequently, and charter school student academic achievement is directly linked to charter school existence;

Whereas charter schools give parents new freedom to choose their public school, charter schools routinely measure parental approval, and charter schools must prove their ongoing and increasing success to parents, policymakers, and their communities;

Whereas two-thirds of charter schools report having a waiting list, the average size of such a waiting list is nearly one-half of the school's enrollment, and the total number of students on all such waiting lists is enough to fill another 1,000 average-sized charter schools;

Whereas students in charter schools nationwide have similar demographic characteristics as students in all public schools;

Whereas charter schools in many States serve significant numbers of students from families with lower income, minority students, and students with disabilities, and in a majority of charter schools almost half of the students are considered at risk or are former dropouts;

Whereas charter schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the Nation; and

Whereas charter schools are laboratories of reform and serve as models of how to educate children as effectively as possible: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 29, 2002, through May 3, 2002, as ''National Charter Schools Week'';

(1) honors the 10th anniversary of the opening of the Nation's first charter school;

(2) acknowledges and commends the charter school movement and charter schools, teachers, parents, and students across the Nation for their ongoing contributions to education and improving and strengthening the Nation's public school system;

(3) supports the goals of National Charter Schools Week, an event sponsored by charter schools and charter school organizations across the Nation and established to recognize the significant impacts, achievements, and innovations of the Nation's charter schools; and

(4) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools in communities throughout the Nation.

ANDEAN TRADE PREFERENCE EXPANSION ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 295, H.R. 3009, the Andean Trade Preference Expansion Act, and send a cloture motion to the desk on the motion to proceed.

The PRESIDING OFFICER. The clerk will report the cloture motion.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 295, H.R. 3009, the Andean Trade Preference Act:

Max Baucus, Zell Miller, Harry Reid, Tom Carper, Joseph Lieberman, Bob Graham, John Breaux, Blanche L. Lincoln, Ron Wyden, Dianne Feinstein, Ben Nelson, Trent Lott, Charles Grassley, Orrin G. Hatch, Jon Kyl, Rick Santorum, Pat Roberts.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory live quorum under rule XXII be waived and that the vote on cloture on the motion to proceed occur at 6 p.m. on Monday, April 29.

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

ORDERS FOR FRIDAY, APRIL 26, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m., Friday, April 26; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to H.R. 3009, the Andean Trade Act.

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

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes tomorrow. The next rollcall vote will occur on Monday at 6 p.m. on the cloture motion on the motion to proceed to the Andean trade bill.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:37 p.m., adjourned until Friday, April 26, 2002, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 25, 2002:

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD M. RUSSELL, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE ARTHUR BIENENSTOCK.

DEPARTMENT OF STATE

JAMES FRANKLIN JEFFREY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

MARK SULLIVAN, OF MARYLAND, TO BE UNITED STATES DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE KAREN SHEPHERD, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 25, 2002:

THE JUDICIARY

PERCY ANDERSON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

JOAN E. LANCASTER, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

WILLIAM C. GRIESBACH, OF WISCONSIN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

JOHN F. WALTER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.