The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LA TOURrette).

DESIGNATION OF THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, April 25, 2002
I hereby appoint the Honorable STEVE C. LA TOURrette to act as Speaker pro tempore on this day.
J. DENNIS HASTERT, Speaker of the House of Representatives.

PRAYER
Dr. Paul Dixon, President, Cedarville University, Cedarville, Ohio, offered the following prayer:

Our Father, we praise You today as the sovereign God of the universe. We bow before You, the creator God; the God who demonstrated Your great love for us while we were yet sinners. Your Son died for us. You, the living God, the everliving One, are worthy of all praise. You have smiled upon America. The only Son died for us.

THE JOURNAL
The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof. Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE
The SPEAKER pro tempore. Will the gentleman from Texas (Mr. SAM JOHNSON) come forward and lead the House in the Pledge of Allegiance.

Mr. SAM JOHNSON of Texas 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.

MESSAGE FROM THE SENATE
A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:


ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. HOBSON) for the purpose of introducing the guest chaplain.

RECOGNIZING CEDARVILLE UNIVERSITY PRESIDENT DR. PAUL DIXON
(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, on behalf of Senator DEWINE and myself, I rise today to recognize this morning's honored guest chaplain, Dr. Paul Dixon, who serves as the president of Cedarville University, which is located in Greene County, Ohio, in my district, and in Cedarville, which is also the home of Senator DEWINE.

Dr. Dixon has served in this capacity for 24 years, which is about twice as long as I have been a Member of Congress. Prior to assuming the role as president, Dr. Dixon ministered as an evangelist. He continues his ministry today, traveling to hundreds of churches, youth camps, and adult fellowships throughout the year.

Dr. Dixon is also a popular speaker for professional sports chapel programs, including those of the Cincinnati Reds, the Bengals, the former Houston Oilers, and many National League ball teams.

Dr. Dixon’s tenure at Cedarville has been marked by many accomplishments, not the least of which is the institution’s physical growth. Under Dr. Dixon’s exceptional leadership, enrollment has increased 140 percent, and...
Cedarville has enjoyed record enrollments for 23 of the 24 years he has been president.

In addition, the campus has grown from less than 100 acres to more than 400 acres. He has built probably $100 million worth of new buildings on this wonderful campus.

He is a graduate of Tennessee Temple University, and holds a doctorate in education from the University of Cincinnati. In May of 2000, he will be transitioning to the role of chancellor for Cedarville University.

As Ohio’s Seventh District Representative to the Congress of the United States, I take this opportunity to publicly recognize Dr. Dixon for his achievements on behalf of Cedarville University, and his many contributions to the spiritual growth of Ohio are noteworthy.

I thank him for his service to all those he serves.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes per side.

H.R. 3231, BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, about 30 days ago, the INS sent a notice to a flight school that Mohammed Atta could continue training on an aircraft.

It was a big blunder, a colossal mistake, and the President described the following day that he was very mad.

Thirty days later, the President and this Congress have worked on a bill to restructure the INS. It is coming to the floor today, and I want to commend the President, the gentleman from Cincinnati. In May of 2000, he will be transitioning to the role of chancellor for Cedarville University.

Mr. SAM JOHNSON of Texas. Mr. Speaker, over the past 8 months, the American people have heard horror stories about the inefficiencies and inadequacies of the INS. I am afraid we have only seen the tip of the iceberg. Something has to be done, and it needs to be done now.

First and foremost, we must remember that immigration to America is not a right. It is a privilege. We must ensure that our government is doing everything it can to make the system run more efficiently and protect our people. We can no longer allow people who respect our laws to fall to the back of the line while those who neglect laws fall through the cracks.

The INS is one bureaucratic blunder after the next, and I fear what that means for the American people. We must be fair, and laws must be followed.

In short, when it comes to the INS, those who follow the law should be rewarded; those who break the law should be deported.

STATE DEPARTMENT ASSISTANCE NEEDED TO BRING ABDUCTED CHILDREN HOME

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I feel like I’ve been recited. I am here to talk about Ludwig Koons, who is being held in a pornographic compound in Italy.

We need the help of our governments, the United States and Italy, to return this child, along with thousands of others who have been removed by non-custodial parents outside of our country.

I have mentioned the State Department before in these 1-minute addresses. I asked recently Secretary Powell to help American parents and children, but I find that the message is not getting through.

On Monday, a member of my staff met with a man whose children had been abducted by an ex-wife and taken to Mexico. The State of California had awarded custody of the children to the father. They have now been in Mexico for 2 years.

When he met with the State Department, he did not get the help that he needed. Instead, he was told he probably would not see his children again.

What an outrageous attitude. The State Department should be an unflagging advocate for Americans and their children, who are, I remind Members, American citizens themselves.

The situation is unacceptable to me. I cannot imagine that it is not unacceptable to other Members. Please join me. We must bring our children home.

TANF REAUTHORIZATION: REAL JOBS, NOT WORKFARE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. What should we seek to change in TANF when it is reauthorized: to make TANF reduce poverty and help recipients get good jobs with adequate wages, or to punish people out of compliance? The Hoyer and McKeon bills only punish people when they enact counterproductive workfare programs.

Does workfare provide training? No. Does workfare provide educational opportunities? No. Does workfare provide the minimum wage? No. Does workfare provide coverage for health and safety, civil rights, and other employment laws? No. Does workfare provide a chance at being hired? No.

Workfare will not help recipients find or keep a good job. TANF should allow a recipient to get a GED, learn English, and get a post-secondary degree in order to obtain a good job. TANF should allow a recipient to get rehabilitation, to physical disability, deal with domestic violence, and access mental health counseling.

TANF should provide adequate funding for child care, and allow mothers to care for their children if they are very young or disabled. They should end the punitive full family sanctions, which eliminate food stamps and other benefits from poor children when their parents are not in compliance. TANF should help people out of poverty, not punish families and children for being poor.

CONGRATULATING GIRL SCOUTS OF AMERICA ON 90TH ANNIVERSARY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am here to congratulate the Girl Scouts of America on its 90th anniversary.

Since 1912, Girl Scouting has empowered girls with the confidence to develop their potential, and the counseling and guidance to formulate sound values and decision-making skills.

Girl Scouting allows the opportunity for girls to develop physically, mentally, and spiritually, and enables them to make significant contributions to our society.

Over 50 million American women, including two-thirds of our doctors, lawyers, educators, community leaders, and even my colleagues in the U.S. Congress, were Girl Scouts. My daughters, Amanda Michelle and Patricia Marie, benefited from the joys of being Girl Scouts, and just several years ago I served as their Girl Scout troop leader.

Girl Scouts is indeed a place where girls grow strong. I ask my colleagues in Congress to join me in congratulating Girl Scouts of all ages, and the Girl Scouts of America as it celebrates its 90th anniversary.

MRS. McKEON. Mr. Speaker, I ask the permission to address the House for 1 minute and to revise and extend its remarks.

Mr. McKEON. Mr. Speaker, would it be in order for me to speak for 1 minute and to revise and extend my remarks?

Mr. FOLEY. Mr. Speaker, about 30 days ago, the INS sent a notice to a flight school that Mohammed Atta could continue training on an aircraft.

It was a big blunder, a colossal mistake, and the President described the following day that he was very mad.

Thirty days later, the President and this Congress have worked on a bill to restructure the INS. It is coming to the floor today, and I want to commend the President, the gentleman from Wisconsin (Mr. SENSENIBRENNER), the chairman, and all who have worked to bring this important bill to the floor today.

We need to bring some credibility to this agency. We need to be fair on immigration. We need to be just. We need to operate with respect, but we also have to enforce the laws of the land.

Strengthening our borders, strengthening the integrity of the system, finding those who have slipped through the cracks and have ill intent in this country, that should be our priority; not focusing on hardworking people that are here legitimately, but finding those who wrought terror on us on September 11 and seek to continue to undermine the country.

This is a good bill. I urge its adoption.
WELFARE REAUTHORIZATION
(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, 35 years ago, I was a single mom with three small children, and even though I was working, I needed Aid for Dependent Children to make ends meet.

When Congress passed welfare reform in 1996, I warned that getting women off the welfare rolls and into dead-end jobs would not be enough, and that the goal of welfare must be to break the cycle of poverty, not just get them jobs that pay slightly above minimum wage.

With TANF reauthorization, we have an opportunity to fix what went wrong by allowing education and training to count as work, and by expanding child care to include weekend and evening work.

Welfare moms can only succeed if they have skills needed for a job that pays a livable wage, and if their kids have access to quality child care. Welfare must break the cycle of poverty and strengthen our families. Let us use this TANF reauthorization to make welfare a success. Learn from the last 5 years.

COPYRIGHT AWARENESS WEEK
(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, the Copyright Society of the USA, a nonprivate organization, has chosen the week of April 22 to foster interest in and advance the study of intellectual property, especially copyright law.

It is virtually impossible to conceive life without the arts. I can hardly imagine, Mr. Speaker, for example, what our world would be like without books, music, and movies.

As chairman of the Subcommittee on Courts, the Internet, and Intellectual Property, I am particularly aware of the important role copyright law plays in sparking the creative abilities of artists. The creative community contributes significantly to the well-being of our culture and our economy, and I urge my colleagues to join the Copyright Society in celebrating the contributions of artists to our culture and economy by supporting the copyright law.

TANF
(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, I rise today in support of America’s children. The President’s proposal for welfare reform reauthorization increases work requirements for parents receiving Temporary Aid for Needy Families, but it does not provide any additional child care funding.

The research from the field of child development is indisputable: High quality child care promotes mental development and success in school. Under the current program, only one out of seven eligible children receives child care assistance.

In my State of Massachusetts, there are 18,000 eligible children on a waiting list for child care assistance.

Does the President expect the young children of temporary aid recipients and their families to care for themselves? Does he expect parents to go to work when they do not have a safe place to send their children?

The President’s proposal will make what is already a bad situation worse.

If we really want to reduce poverty in this country, we need to make a full commitment to the health and well-being of our poorest and most vulnerable children. Increasing Federal funding for child care will make it easier for parents to work, and it will ensure that children are better able to succeed later in life.

THE HORSESHOE BEND, IDAHO, RURAL WATER PROJECT
(Mr. OTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTER. Mr. Speaker, I spent last Monday, Earth Day, in Horseshoe Bend, Idaho, with the mayor, Brian Davies, celebrating the announcement of their rural water project. The USDA Rural Development Agency and its Idaho director, Mike Fields, had provided a loan of $600,000 and a grant of $260,000 to the city. That money, coupled with $251,000 from the citizens themselves, and an additional $385,000 from the community development block grant from the State of Idaho, will assist Horseshoe Bend with upgrading their existing sewer treatment plant.

This is an outstanding example of initiative and partnership formed for the development of a rural community’s infrastructure.

Far too often, Mr. Speaker, Federal agencies impede the needed cooperation through excessive regulation or unnecessary assertion of authority. Here is an example of a government agency recognizing a problem and then working with the community to find a solution. It is an encouraging example of government being a partner in finding a solution, rather than an impediment to the progress.

Many policies of the Federal Government will follow the example of the USDA Rural Development Program.

TANF REAUTHORIZATION
(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, as we work to create welfare reform legislation, we must make sure that TANF recipients have access to higher education and child care. Recipients need to earn higher wages that will lift them out of the cycle of poverty.

Forty-four percent of adults receiving TANF cash assistance in 1999 lacked a high school diploma or a GED certificate. In my district alone, the female recipients there had less than an eighth grade education. In Los Angeles County, about 41 percent of the TANF caseload are limited-English proficient. That is to say that they do not speak English. Their primary language may be Spanish or other.

Clearly, TANF recipients need educational opportunities before they can qualify for high-quality paying jobs and livable wages, not just minimum-wage jobs.

Given this reality, I am disappointed that the Bush administration has chosen to ignore the need to extend educational opportunities. We cannot get people into good jobs if they only have 12 months of training. We need to extend that to 2 years, at a minimum, so that they can go on into higher education.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2142
(Mr. PITTS asked and was given unanimous consent to have my name removed as a cosponsor of H.R. 2142.)

The SPEAKER pro tempore (Mr. LATTIMORE). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

KING OF MOROCCO
(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today regarding the King of Morocco’s visit to our Nation’s Capital this week.

I ask the King to reflect on the statement he made to Secretary Powell earlier that Powell should “consider the plight of the Palestinian people.” Yes, our Nation must act on behalf of justice for all people. But should not the King of Morocco do that as well?

What would the King say about the hundreds and thousands of Sahrawi people who have disappeared or are languishing in prison? What would the King say about the Sahrawis living in the occupied territory of Western Sahara who are arrested or shot or killed by Moroccan security officials for their peaceful protests about Morocco’s policies?

Mr. Speaker, I would ask the King of Morocco to seriously consider the policies of his own country, policies that
have oppressed and persecuted the Sahrawis so that they have had to live in refugee camps in the harsh Sahara Desert for over 25 years. Their government’s policy should also ensure that the Sahrawi people are guaranteed their rights and get their property returned.

WESTERN HEMISPHERE OIL SUPPLIES NOT NECESSARILY SECURE

(Mr. HALL of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Speaker, today I want to address the question of security of our oil supply. The political dynamic that resulted in the crippling Arab oil embargo Americans suffered throughout 1970s is not exactly the same today. Fuel sources today are much more dispersed.

However, our oil supplies are still vulnerable. Recently, crude oil and refined product shipments in Venezuela were at a virtual standstill due to the off-again and on-again regime of Hugo Chavez.

Mexico’s oil industry has come on strong in recent years with Mexico establishing itself as the second largest producer in the Western Hemisphere. But the state-owned oil company, Petexmex, continues to struggle for lack of investment capital.

Fortunately, the United States can look to Canada for supply. According to EIA, from January through November 2001, the United States imported more oil and refined products from Canada than any other country.

Mr. Speaker, we cannot take any foreign oil supply for granted. We must realistically turn to the development of new domestic sources of oil and gas reserves in the offshore, in the Rockies and in Alaska. We have the know-how and the resources to accomplish this. If not now, when?

WELFARE REAUTHORIZATION

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, in this November’s election, there is going to be a lot of talk and debate about Social Security. As a person that has worked for the last 9 years on the Social Security problems; and how we achieve the best possible solution to make sure that we keep this important program, and having served in the last session as chairman of the bipartisan Task Force on Social Security. I would like to make a couple of suggestions.

One is that we do not try to scare people in an effort to achieve some kind of political advantage, but rather that we talk about the real problem of Social Security; we talk about the real cost of doing nothing. Right now we have a $9 trillion unfunded mandate. It needs to be rationally discussed; we need to face up to the challenge. It is a serious problem.

In conclusion, Mr. Speaker, the longer we put off a solution, the more drastic that solution. Let us move ahead with real discussion and debate, not demagoguery.

WELFARE REFORM REQUIRES COMPREHENSIVE SOLUTION

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, today I would like to ask my colleagues just one question. As we consider reauthorizing our Nation’s welfare program, what do we want to accomplish, a temporary fix, or a comprehensive solution to poverty?

If we truly want a comprehensive solution, we would allow TANF recipients to count education as a work activity so that they can move into living-wage jobs and not end up back on TANF 6 months after they leave. If we want a comprehensive solution, we would invest in quality child care so parents could go to work to ensure their children will be safe in a nurturing environment that is preparing them for success in school and beyond.

If we want a comprehensive solution, we would recognize the typical immigrant worker pays $80,000 more in taxes than they receive in government benefits over a lifetime, and we would restore the safety net for them.

We would do all of this if we wanted a comprehensive solution.

But the Republican proposal does not embody this common sense. What is in their bills is a program that sets low-income people up for failure. Dead-end workfare jobs with no opportunity to pursue further education and escape is a vicious cycle of poverty.

I challenge my colleagues to make good their election year pledges to help America’s working families and make these improvements in TANF this year.

HONORING THE ACHIEVEMENTS OF MARGE SCHOLLAERT

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today to honor the achievements of Marge Schollaert, a constituent who resides in Chambersburg, Pennsylvania. Recently, Marge was named the School Counselor of the Year for the middle and junior high level of the Pennsylvania School Counselors Association. Of the nearly 4,000 school counselors in the State of Pennsylvania, only four are honored as counselors of the year.

Marge Schollaert was recognized by her peers for her commitment to the Chambersburg area middle school and its students. Marge has been a key component in the development of students at Chambersburg Middle School. Among her many accomplishments, Marge took the lead in forming Peer Helpers, a program to facilitate the difficult process for students starting in a new school.

Of the 23 years she has served as a school counselor, 18 of those years have been spent working with the students of Chambersburg Area Middle School.

I congratulate Marge Schollaert on her service as counselor of the year. And I applaud her steadfast dedication to her profession and her hard work for the students of Chambersburg.

TANF REAUTHORIZATION

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, for those who think welfare reform is working well because caseloads have decreased, I ask them to come with me through low-income neighborhoods across the country. Walk into the many ghettos and barriers in distressed areas and tell those individuals that welfare reform is working.

During the caseload plunge, many recipients moved laterally in the employment sector from one low-income, low-wage job to another one.

In order to do real welfare reform, we must put hope in the new welfare bill. We must put in job training, education, and transitional movement. We must have a strong fatherhood initiative. Many of the individuals are parents of children. They are incarcerated, in jail, in the penitentiaries. If there is to be hope, we must make welfare reform a reality. If there is no work, there is no hope, and there is no welfare to work.

INS REFORM

(Mr. SULLIVAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SULLIVAN. Mr. Speaker, I would like to voice my support for the immigration reform bill before the House this week. I commend the Committee on the Judiciary and the gentleman from Wisconsin (Mr. SENSENBRENNER), on the Judiciary and the gentleman from Wisconsin (Mr. SENSENBRENNER), the House Republicans. It is absolutely critical that we completely restructure the INS, one of the most inefficient government agencies. The continual ineptitude was only brought to the public knowledge by the events of September 11. I believe the final straw was March 11 when two of the terrorist hijackers received paperwork showing that their student visas were approved. The approved applications came well after the two would-be hijackers had completed their training course.
CONGRESSIONAL RECORD—HOUSE

April 25, 2002

Mr. TIERNEY. Mr. Speaker, it is interesting to note the fact that 495 Members of Congress have bachelor’s degrees. It is interesting to note the fact that 224 Members of Congress hold law degrees.

The House is soon going to begin debate on reforming our welfare system. As we do so, I urge my colleagues to recognize the direct correlation between education and earning potential.

What this Congress needs to do is to ensure that educational opportunities can count as work for at least 2 years for those individuals on welfare.

That is why I, along with the gentlewoman from New Jersey (Mrs. Roukema), have introduced H.R. 4210, the Working From Poverty to Promise Act, which would, among other things, allow for expanded educational opportunities to count as work full-time for 24 months. In the long run, we need individuals to become independent with stable family lives, while also meeting the labor needs of our increasingly sophisticated economy. We can ill afford to be shortsighted in our reform by forcing people into low-wage jobs with no potential for advancement. That simply continues the cycle of dependency.

The business community in my region has concluded that it too has benefited when people are prepared to work at a level adequate to fulfill the challenging and advanced positions and to make their companies profitable.

Mr. Speaker, the President’s plan which is voted on by the House majority would be much improved if amended to let welfare recipients have real opportunity through education and job training.

PROPOSED TANF REAUTHORIZATION

Ms. WATSON of California asked and was given permission to address the House for 1 minute.)

Ms. WATSON of California. Mr. Speaker, I strongly oppose the President’s proposal to increase TANF work requirements. The proposed 40-hour work week will cripple the State’s ability to continue to move TANF recipients out of poverty and into self-sufficiency. It will require States to make work.

Despite recent trends, poverty has grown in my State of California. Hispanic families have higher rates of poverty in California than anywhere else in the country. Furthermore, most poor families in California are working. Simply working more hours is not the solution.

Education Research has shown that welfare recipients who are able to attend community college increase their median earnings by 43 percent. More than half of the people on welfare in Los Angeles lack a high school diploma. Clearly, the educational needs of these people are not being met.

TANF reauthorization needs to address the educational needs of welfare recipients. Simply working more hours is not the solution.

PROVIDING FOR CONSIDERATION OF H.R. 3231, BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 396 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 396

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3231) to restructure the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against the nature of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

It waives all points of order against the bill, as amended and makes in order only those amendments printed in the report of the Committee on Rules accompanying the resolution.

H. Res. 396 provides that the amendment printed in the report shall be considered only in its printed form in the report, may be offered by a Member designated in the report, may be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponents and opponents, may be subject to an amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived.

At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the committee on the question of the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LaTourette). The gentleman from Georgia (Mr. Linder) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. Hastings) pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 396 is a structural rule providing for consideration of H.R. 3231, the Barbara Jordan Immigration Reform and Accountability Act of 2002. The bill provides for 1 hour of general debate equally divided by the chairman and ranking minority member of the Committee on the Judiciary.

This rule waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.
so, we will have taken a big step towards enabling the Federal Government to effectively manage our Nation’s immigration policy for the first time in nearly 70 years.

Since 1933, when immigration enforcement was reorganized under the management of the INS, it has failed to fulfill both of these missions. The INS has not adequately deterred or eliminated illegal immigration, and it has ill-served legal immigrants, appraisers for residence on work visas. It is only through the drastic, structural reforms proposed by H.R. 3231 that we can begin to improve both immigration service and enforcement, and thereby serve America’s citizens and immigrants.

H.R. 3231 will split the INS into two distinct, but equal, agencies so that each may concentrate on a single mission. The Bureau of Citizenship and Immigration Services, BSIC, will facilitate the legal immigration processes, while the Bureau of Immigration Enforcement, BIE, will deter and remove illegal immigrants. Furthermore, this bill elevates the importance of immigration policy in the executive branch’s hierarchy by creating an Associate Attorney General within the Department of Justice, whose sole responsibility will be immigration affairs.

Every year more than one million people settle in the United States. Most come legally after waiting years for visas or work permits and following the lengthy red tape trail to legal status. They come for the opportunity to live the American dream, to join loved ones, or to seek jobs, freedom, prosperity, and security. In turn, we only ask that they abide by our laws and respect the principles outlined in the Declaration of Independence and the Constitution.

The majority of immigrants adhere to these principles, and as a Nation essentially founded by immigrants, we welcome them to our shores. Immigrants have contributed to our growth as a democratic and capitalistic Nation, and we recognize that immigration is a historic and vital facet of American life. It is only natural then that we should work to facilitate their admittance to the United States. Yet for years we have failed in this regard.

A report by the General Accounting Office, released last month, indicated that in the fiscal year 2001, 4.9 million applications and petitions for interviews after the tragic attacks. Finally, it is worth noting that reports estimate that as many as 40,000 illegal aliens who have been ordered deported are still living in the U.S.

While this information is startling, these are just a few of the notable incidents in a long string of enforcement failures by the INS. We must restore our ability to adequately detect non-compliance and fraud. This goal will be enhanced by the establishment of a single agency, focusing on enforcing our immigration laws and removing violators. The BIE would be tasked to protect our borders and stop illegal crossings. Further, as approximately 40 percent of the illegal immigrants come to the U.S. on legal and temporary visas, the agency will be able to better track and monitor visa overstayers and provide swift removal. While the BIE cannot single-handedly correct all of our immigration problems, it can correct many of these problems and provide a greater level of security to our Nation and its citizens.

Since the 1930s, the INS has been charged with implementing national immigration policy. Each time and time again, the INS has failed the American people and the Congress. And it has disappointed our immigrants and contributed to the weakening of our national security. With each shocking revelation of a new oversight, failure or mistake by the INS, we have expressed our shock and bewilderment. With each report highlighting the inefficiencies stemming from the numerous deficiencies, we have urged change. Yet today is the day that we will actually begin this long overdue process.

Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise today to voice my support of the Barbara Jordan Immigration Reform and Accountability Act of 2002. Before I launch into my remarks, I would like to preface them by asking the Chairman of the Committee on Rules—what would Barbara Jordan do? I wish I could give the rule that we will presently consider the type of support that I would offer for the Barbara Jordan Immigration Reform and Accountability Act. However, I look forward to allowing a number of thoughtful substantive amendments to be considered by the House this morning.

That fact notwithstanding, I want to commend the authors of this bill, the gentleman from Wisconsin (Mr. Sensenbrenner) and the gentleman from Pennsylvania (Mr. Gekas) and the ranking members, the gentleman from Michigan (Mr. Conyers) and the gentleman from Texas (Ms. Jackson-Lee). They have produced a bipartisan bill that is sure to improve the performance and accountability of the way this Nation handles its immigration procedures. I should better say that they hope it will do that.

My next sentence, Mr. Speaker, I am sure will be music to the ears of the multitudes who sometimes run up against the brick wall known as the INS. This bill abolishes the Immigration and Naturalization Service and replaces it with two separate bureaucracies: the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

Please do not get me wrong, Mr. Speaker. There were thousands and thousands of hard-working INS employees, many of whom I have the privilege to represent and my offices, particularly those in Florida, interface with on a day to day basis. They are extremely responsive with the limited technology that they have to try to protect our borders and stop illegal immigration. They are extraordinarily committed to the American Dream, to join loved ones, or to seek jobs, freedom, prosperity, and security. In turn, we only ask that they abide by our laws and respect the principles outlined in the Declaration of Independence and the Constitution. I should better say that they hope it will do that.
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would ask my colleagues to back off of them a bit and to go after those people who really have caused the problem, sometimes some of us politicians.

It is unfortunate, however, that the leadership of the INS over the past generation has made it into literally the laughingstock of the Federal bureaucracy. While I am convinced you will find no harder working employees than the rank and file at the INS, I am equally convinced that many of these people are justifiably confused and frustrated by the seeming constant and structural and institutional paralysis at their agency.

The bill we consider today makes a number of changes that I hope will help pave the way for a system and structure that the American people can be proud of and one that treats visitors to our country fairly, keeping in mind the very serious responsibilities of safety and security for our citizens. The Barbara Jordan immigration reform bill establishes the office of the Associate Attorney General for the purpose of immigration affairs. Under the measure, the Associate Attorney General would be appointed by the President and confirmed by the Senate. The Associate Attorney General will be hired to have a minimum of 5 years managing a large and complex organization and will be responsible for coordinating the administration of naturalization policy and overseeing and supervising the work of the directors of the immigration services and enforcement bureaus and reconciling any conflicting policies between the bureaus.

While the legislation was passed out of the Judiciary Committee by an overwhelming majority, I cannot, however, ignore the very cogent dissenting views of the Judiciary Committee by an over-policies between the bureaus. The need to have a minimum of 5 years managing a large and complex organization and will be responsible for coordinating the administration of naturalization policy and overseeing and supervising the work of the directors of the immigration services and enforcement bureaus and reconciling any conflicting policies between the bureaus.

Additionally, although the title of the bill suggests that we are reforming both immigration structure and policies, it fails to address many substantive issues that many Members, myself included, would have liked to have seen more fully explored. For example, the amendment I intended to offer, which was not given a waiver and not made in order, would have added some substantive meat to the legislation, adjusting the immigration status of eligible alien aliens by granting them permanent resident status in the United States, those that are here since 1995.

The amendment would have been a critical first step in rectifying grievous inequities in current INS policy. They grant one type of treatment for refugees from certain countries and a different, second-class, if not third-class type of treatment to migrants from other countries.

No later than yesterday, the Miami Herald and the Sun Sentinel in Fort Lauderdale editorialized that this policy is discriminatory. It needs to stop. And we offered an amendment that would make visible it. And of course, what we ruled as not germane. I do not know what could be any more germane, and I do not know where a waiver obtains in the Committee on Rules, but I rather suspect that we did not want to offer this measure so as not to impinge on this so-called reform that we are headed down the road to.

Mr. Speaker, we cannot as a democratic Nation continue to condone an immigration policy that favors immigrants from some nations while discriminating against those from others. I have always believed that legal immigration is one of the sources of America's greatness, as our country has prided itself on its diversity, its strength through diversity.

We are a Nation of immigrants, and those who enter our borders legally should be afforded equal opportunity to excel and prosper, and there is evidence that that has been the case in this great country. The benefits that those of us born here take for granted.

As I said, Mr. Speaker, I do support the base bill on the floor today and I think the gentleman from Wisconsin (Mr. Senseburner) and the gentleman from Michigan (Mr. Conyers) have done an outstanding job, and I urge my colleagues to do likewise. I only wish that the Committee on Rules had permitted a few more amendments to make in order those things that would make this bill a lot more meaningful.

I do end by saying what I said at the outset, Mr. Speaker, and that is, we have named this bill the Barbara Jordan Immigration Reform and Accountability Act of 2002. Like many people in this room, I knew Barbara Jordan, and I ask the question, what would Barbara Jordan do?

Mr. Speaker, I reserve the balance of my time.

Mr. LINDE A. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Georgia (Mr. Kingston).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me the time, and I certainly appreciate the opportunity to participate in this debate with my friend from Miami and my friend from Georgia.

I just want to go through a few charts today because I believe that what is driving this debate is maybe incompetence, or maybe a combination of things at INS that has certainly caused it to fall very, very, very short of its mission and even to the extent of endangering national security. Some have even suggested that INS actually stands for ignoring national security. Why would they do this?

Here is a question that was asked to the former Deputy Attorney General George Terwilliger, and this comes from a March 10, 2002, quote. “Do you think the INS has a handle on who it lets in and who is here and whether they have left?” His answer, as a very important person, “No, they do not have a handle on it.”

Another statistic from the House Committee on the Judiciary, the Census Bureau estimates that at least 8 million undocumented illegal immigrants reside in the United States of America. I want to give my colleagues a picture of 8 million. The State of Georgia has 8.1 million people. So what we are saying is a State the size of Georgia would have a total population of undocumented illegal immigrants. That is outrageous, atrocious, and unacceptable.

Are they ignoring national security? In March 2002, the INS mailed a letter to a Florida flight attendant informing them that Mohammed Atta and another hijacker had been approved for student visas. Of course, Mr. Atta was not around to receive his visa at that time because, as my colleagues recall, he had driven a plane into the World Trade Center in September. Ignoring national security; if the INS officials were following their own policies, Mohammed Atta would never have been allowed to enter the United States of America in the first place if they just followed their own policies.

Are they ignoring national security? There are over 300,000 criminal and deportable illegal immigrants ordered removed by immigration judges that have fled; 6,000 of those are from countries identified as al Qaeda strongholds; 300,000 criminals that have been ordered to leave. I would say, yes, it does appear that national security has been ignored.

Is it incompetence? The INS had a backlog of 4.9 million applications and petitions at the end of fiscal year 2001. Now, it has already been said the gentleman from Georgia (Mr. Lindon), he in his office and in many congressional offices around the country they get more INS complaints than they get IRS complaints. And I see it in Savannah, Georgia.

People come in all the time and they cannot get their visas approved, they cannot get other things stamped and taken care of. We, I believe, have a very good, local, competent office, and I agree with the gentleman from Florida. He says lots of very, very good employees who do an excellent job, but I think structurally the deck is stacked against them. Their hands are tied to do what they really want to do, what they know they should do, and what they can do lots of very, very good employees who do an excellent job, but I think structurally the deck is stacked against them. Their hands are tied to do what they really want to do, what they know they should do, and what they can do lots of very, very good employees who do an excellent job, but I think structurally the deck is stacked against them. Their hands are tied to do what they really want to do, what they know they should do, and what they can do lots of very, very good employees who do an excellent job, but I think structural...
time for a change. We can do that. This legislation today is a very significant first step to clean up a long overdue process. When the government is no longer responsive and no longer efficient, no longer doing what it is meant to do, it is time for Congress to step in and change, and that is what we are doing here today.

Support this rule and support the legislation.

Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. Kolbe).

Mr. KOlBE. Mr. Speaker, I rise in opposition to the amendment that is before us and in support of the House-passed bill that would implement reforms of the INS as originally passed by the House Committee on the Judiciary. I think the amendment falls short of the real reform that is needed.

Unfortunately, the bill that we have before us today simply rearranges the boxes on the existing organization chart of the INS. It separates two divergent functions within the INS, immigration service and benefits. But it does not do much more than already exist. Instead of having the two functions joined at the top by the INS Commissioner, who is responsible for the Attorney General, they are joined at the top by an Associate Attorney General who reports to the Attorney General.

My colleagues may be interested in knowing that on November 4 of last year, the Attorney General and the INS Commissioner announced that under their own reorganization plan, "clear and separate chains of command for the agency's service function and enforcement function are created." The amendment to this bill would add nothing to what has already been done administratively.

The bill also purports to give each function its own budget and its own dedicated employees. As a member of the Subcommittee on Commerce, Justice, State and Judiciary that has responsibility for the INS and Department of Justice budget, I can tell my colleagues that for some time now we have already separated the budget of the service and the enforcement functions of the INS. So nothing new is accomplished here, either.

It is no surprise that the Department of Justice is now supporting this bill because it does not impose any changes on them. The only difference that I can see is that we will change the INS Commissioner's title to Associate Attorney General. The same people at the INS will be doing the same things they are doing today and the same things they did prior to September 11.

What would have been different if this proposed bill had been law prior to September 11?

The same people will be patrolling our borders and reporting to the same sector chiefs. The same people will be issuing visas and adjudicating immigration claims. But to implement the supposed reforms, it would cost the American taxpayers an additional $1.1 billion. Why? Because it would eliminate $1 billion of revenues that immigrants pay now through fees that are used for border enforcement or drug interdiction. We would have to replace it with general revenue funds.

Mr. Speaker, the irony today is that there is a proposal for real INS reform. It was submitted to Congress 5 years ago. It was the recommendation of the commission chaired by the late Congresswoman Barbara Jordan. I would have liked to offer the commission's recommendation as an amendment, but this rule does not permit that.

The commission's proposal has been vetted and studied for years, 5 years by the commission and at least 5 years that it has been before Congress. These recommendations, my amendment, would fundamentally restructure INS by recognizing three core immigration functions: (1) immigration enforcement; (2) immigration service; and (3) immigration adjudication. We would recognize them into three specific departments with expertise in these areas.

Let me read just a couple of excerpts from a letter written by Robert Hill and Bruce Morrison, a Republican and a Democrat, who cochaired the Jordan Commission Working Group on Structural Reform of the INS:

"Coordination of functions would be better under H.R. 4108," that was the bill I have introduced that now I propose to offer as an amendment. "Coordination of functions would be better under H.R. 4108 than under the Judiciary Committee bill. Under the committee bill, administration of immigration benefits would continue to be split between Justice, Labor, and State. As it is now under current law. All the fragmentation found by the commission would continue. Your bill addresses this problem with its consolidation of benefits adjudication in the State Department.

Quoting further, "Immigration law enforcement belongs in the Justice Department . . . The Justice Department is the wrong place for adjudicating immigration benefits."

Mr. Speaker, I would place in the RECORD at this point the rest of this letter.

HON. JIM KOLBE,
Chairman, House of Representatives. Washington, DC.

DEAR CONGRESSMAN KOLBE: As former members of the U.S. Congress on Immigration and Naturalization, we are writing to express our views on the INS Reorganization Act of 2002 (H.R. 4108), under which we introduced on April 9, 2002. We understand the concern of the Jordan Commission's recommendations for comprehensive restructuring of responsibility for immigration functions within the government. We are concerned about what we may seek to offer your bill as a substitute for the well-intentioned, but more limited reforms contained in H.R. 3231 reported by the House Judiciary Committee.

In this context, we offer some suggestions on why the more complex separation of responsibilities recommended in your bill received support from the Commission. We continue to believe that this more fundamental reform is feasible.

From 1992 to 1997, we served together as members of the Jordan Commission and cochaired its working group on immigration reform which developed recommenda-

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right home for immigration enforcement make it the wrong place for benefits adjudication. In fact, the general rule in the federal government is for serious violations of law requiring benefits and programs to be handled by law enforcement agencies, not the agency administering the benefit.

The State Department is the best place to locate the benefits function. The need to take benefits administration out of Justice was an easier choice for the Commission than the choice of a new location. But after examination pointed strongly to State. That Department has the greatest institutional capacity and presence, as well as professional expertise, to undertake the work of establishing and administering a consolidated worldwide adjudication system. It issues millions of visas and more than seven million non-immigrant visas each year to applicants around the world. It processes millions of passport applications. It has the policy and technological means to handle the massive immigration administrative workload.

In April of 2001, I filed H.R. 1562, a bill called the Immigration Restructuring and Accountability Act of 2001. In that bill it included an Office of Children's Affairs, which points to the need to establish a consistent and comprehensive immigration policy that can and should play the key role in the broad questions of migration policy, as it now does in refugee matters. As one of the four most powerful cabinet departments in the government, it is the responsibility of the White House to elevate immigration policy issues on any Administration's agenda. This bill is a bill that has brought about one of the most effective series of conversations and negotiations between the chairman, ranking member, subcommittee chair, and ranking member of the Subcommittee on the Judiciary.

The bill that you have before you today is bipartisan legislation to comprehensively overhaul the beleaguered Immigration and Naturalization Service, INS. On April 10, 2002, the INS has failed to fulfill its duties. The people of Arizona have to deal with the consequences, such as treating injured illegal immigrants, environmental degradation, and the strain on law enforcement.

I simply cannot go back to my State, to the people of southern Arizona and say that we have reformed the INS with this bill because, sadly, it just does not do it. It is an illusion of reform.

We need to go back to committee. We need to consider real reform for the INS. Unfortunately, this bill just does not do it.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Mr. HASTINGS of Florida. Ms. Speaker, I thank the distinguished gentleman from Florida (Mr. HASTINGS) a member and a very diligent and effective member of the Committee on Rules for his leadership.

We have a period of time to engage in general debate and comment on a number of amendments that have been allowed for in this bill. So I rise today to discuss this bill in the overall context of the ability of the House of Representatives to be a problem solver and to ensure that the bill is reflective of the intensity of hard work that has gone on throughout the days and months and years that the light has been shone on the INS.

This bill is a bill that has brought about one of the most effective series of conversations and negotiations between the chairman, ranking member, subcommittee chair, and ranking member of the Subcommittee on the Judiciary.

Ms. Speaker, I rise in support of the rule governing H.R. 3231 on the floor today. This is a good rule not because it is a structured rule, but because it allows amendments that are germane, that improve the bill in a careful and deliberate way.

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continue to deteriorate. I also am a cosponsor of legislation that would allow the Attorney General to enter into contracts with private sector firms to develop and implement an overall technology solution to the INS current problems. I hope this amendment is made in order. This amendment is crucially important to me, and I urge my colleagues to find common ground on the issue of immigration reform. Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. Issa).

Mr. Issa. Mr. Speaker, one of the reasons that we need restructuring of the INS is to keep the Mohammed Attas out of the United States. Reports state that Mohammed Attas, an Egyptian citizen, piloted the first plane that crashed into the World Trade Center.

Let us take an INS record of Attas. On June 3, 2000, Attas was admitted to the United States solely for the purpose of being a visitor, a tourist. On July 6, just a month later, after being admitted, he started his flight training in Venice, Florida. INS regulations cannot stop him from doing that flight training. That is a student status. It is not, repeat, is not a tourist status event.

On August 29, 2000, after he had begun training, the flight school, pursuant to INS regulations, applied for a student visa for Attas from the INS. On September 19, 2000, Attas changed his status from nonimmigrant visitor to nonimmigrant student. By this time, he was already flying. In December 2000, before an approval of this application to be a student pilot arrived, he departed the country for travel to Madrid. We can only imagine what he went there for.

Should Attas have been admitted? Let us look at the facts. First, there was evidence before the inspector that Attas obtained a visa by fraud by concealing evidence before the inspector that Attas was returning to attend flight school. The inspector’s notes on January 10 show that Attas admitted that he had been in flight training for 5 to 6 months, almost the entire period authorized for his previous stay, to enter and immediately undertake the business of learning to fly, and now we know learning to kill.

There is also evidence from the inspector’s notes that Attas admitted he was returning to attend flight school. The commissioner himself testified before the House Committee on the Judiciary that Attas’s unapproved application for training visa was abandoned upon his departure from the United States. According to INS regulations, if the inspector thought that Attas was coming to the United States to go to flight school, he should have sent him back to get a proper approval.

Nevertheless, Attas was admitted on January 10, 2001, as a visitor. Six months later, even after Attas had left the United States a second time, Attas’s flight training visa application was approved. This application was approved 11 months after it was filed, despite the fact that he had departed the United States on two occasions.

Mr. Speaker, I think it is pretty obvious. This man should not have been admitted once, not twice, and certainly not three times. Does this mean we have a need for immigration reform? You bet.

I urge my colleagues to find common ground on the issue of immigration reform. I plan on offering additional amendments, because we can never, never again tolerate the ineptness in the INS that allowed this man to come here, not once, not twice, but a third time, and to train and kill Americans on September 11.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume to urge my colleagues to support the previous question and the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. LaTourette). The question is on the previous question.

The question was taken, and the Speaker pro tempore announced that the ayes have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution and on the question of the Chair’s approval of the Yeas and Nays.

The vote was taken by electronic device, and there were—yeas 384, nays 36, not voting 14, as follows:

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<tr>
<th>Yeas</th>
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AKIN, Blunt, Capito
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ARMENY, Bonilla, Cardin
BACA, Boren, Cardin
BAIRD, Boskin, Carmon
Baker, Boucher, Carper
Baldier, Bowser, Cassella
Ballenger, Boykin, Castoro
BARR, Brady (PA), Castle
BARRY, Brady (TX), Cassandra
BARTLETT, Brown (FL), Casy
BARTON, Brown (OH), Costello
BASS, Brown (SC), Costine
BENTSEN, Bryan, Cox
BERETTER, Burr, Cox
BERKLEY, Burton, Coyne
BERMAN, Calihan, Crane
BERWER, Callahan, Crane
BERRY, Crenshaw, Cubin
BHULLRAIKS, Camp, Cubin

Pursuant to clause 9 of rule XX, the Speaker pro tempore announced that the ayes have it.
Mssrs. DAVIS of Illinois, ABERCROMBIE, and CONyers, and Mrs. MEEK of Florida, MRS. CLAYTON, and Mrs. MOORE, Mrs. LOGAN, and Ms. SLAUGHTER changed their votes from "yea" to "nay."

Mr. BENTSEN changed his vote from "nay" to "yea."

The vote was taken by electronic device, and there were—aye votes 334, no voting 12, as follows:

AYES—334

For the resolution: Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote. A recorded vote was ordered.

The Speaker pro tempore. This will be a 5-minute vote, followed by a 5-minute vote on adoption of the Journal.

The vote was taken by electronic device, and there were—aye votes 334, no voting 12, as follows:

AYES—388

For the resolution: Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote. A recorded vote was ordered.

The Speaker pro tempore. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

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AYES—388

For the resolution: Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote. A recorded vote was ordered.

The Speaker pro tempore. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.
Mr. DEUTSCH changed his vote from "aye" to "no."
So the resolution was agreed to.

The result of the vote was announced as above recorded.

So the Speaker pro tempore agreed to the request of the gentleman from Wisconsin.

There was no objection.
providing services to immigrants playing
by the rules.

Today, we must stop being enablers, stop giving more and more money to an agency as a reward for squandering the money we gave it the year before. We must practice tough love and abolish the INS.

In its place, we need to create two separate immigration bureaus in the Justice Department, a Bureau of Immigration and the old Bureau of Citizenship and Immigration Services. This is what the Barbara Jordan Immigration Reform and Accountability Act of 2002 is all about.

I am proud of the work of the Committee on the Judiciary in crafting this legislation on a cooperative and bipartisan basis.

Barbara Jordan, our distinguished former colleague, chaired the U.S. Commission on Immigration Reform. The Commission came to the conclusion that the INS suffers from institutional schizophrenia, or mission overload. It explained that the INS must give equal weight to more priorities than any one agency can handle. Such a system is set up for failure, and with such failure, a loss of public confidence.

That is exactly what has happened. The public no longer has faith in the INS. The public is right, and this bill abolishes this agency.

Some say INS stands for “ignoring national security.” It is hard to argue with that. There are at least 8 million illegal aliens living in the United States and 3.3 million more came in last year, living on the streets, and yet the INS has 300,000 criminal and deportable aliens who have been ordered deported, and removed by immigration judges, have absconded and the INS does not have the slightest idea where they are.

Mohammed Atta became a household name after September 11 to everyone but those in the INS, which approved Atta’s visa to attend flight school long after he had completed it. And 6 months after he hijacked a plane, flew it into the World Trade Center, and killed thousands of people of various nationalities.

This bill creates a new Bureau of Immigration Enforcement, headed by a law enforcement professional and focused on crafting and carrying out policies to enforce our immigration laws and keep Americans safe from terrorists, criminals, and other aliens who wish to do us harm. National security is the only mission they will have. Immigration policy will be an end in itself.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 10 minutes to the able gentleman from North Carolina (Mr. WATT), a member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman from Michigan (Mr. Conyers) for yielding the floor to me at this point. The bill that we are considering here today, I believe, is the antithesis of what we have heard people say that this bill will make immigration services and enforcement more efficient. And I have some very, very serious reservations about that. In fact, I believe the bill could make matters worse.

Mr. Chairman, I have heard through-the-rule debates, somebody came and said that this bill will do something to keep Mohammed Atta from going to flight school in this country. I just think that is a gross exaggeration and the public should not be expecting magic from this bill.

I heard somebody say that this is a Democratic bill. My response to that is that immigration policy is neither Democratic nor Republican. We should be trying to do what is in the interest of the public, and this should not be about politics. I have heard people say that this bill will make immigration services and enforcement more efficient. And I have some very, very serious reservations about that. In fact, I believe the bill could make matters worse.

Moreover, immigration has been all under, one agency in the Department of Justice. This bill would divide it into two separate bureaus. What exactly does that mean? It means, first of all, that you have got to have records, and those records will somehow have to be housed somewhere. Right now they are housed within the INS. I am not sure where they will get housed in this new two-headed monster. Right now this agency is perhaps the most productive agency in America, in the Federal Government. It is still using paper records in an electronic age. But the notion that somehow dividing the agency into two separate bureaus is going to solve that is certainly not the case. I just think that is a gross overstatement that you have got one inefficient, unproductive INS now. It seems to me that what you are going to end up with is two inefficient agencies at the end of the day once this bill is passed.

What does that do to communications? At least within this body we can stand here on the floor and talk to each other. Imagine if half of our body was in the Senate and half was on this side, would that, in fact, improve communications? I do not think so. They say, well this is all about funding. Well, I have spent some time under separate and unequal. It seems to me that at that point what is happening now even in the existing INS is that enforcement is a major disproportion of the INS’s time. Administration is not getting enough money, and now you are setting up a system where that can be formalized. And I guarantee you at the end of the day enforcement will always be hard to argue with that. The administration will still be inefficient, and it will still not help make this a better agency.
The INS is inefficient. It is probably the most inefficient government agency in America. But moving it down the hall and making it a two-headed monster will not make the agency more efficient. It will make it arguably less efficient. Will the lines at INS be any shorter? I am really quite sure they will have to go to a different place to stand in line. You will be standing in line in some agency in the Justice Department rather than standing in line in some agency at something called the Immigration and Naturalization Service.

Now, let me tell you, perhaps the biggest problem that I have with this bill is that at the end of the day everybody who supports it is going to go home to their congressional districts and tell America that we did something. We did something. Well, you did something. Maybe that is what you have done to keep the dissent down because we have not heard any dissent about this bill. People are frustrated. Yes, they are frustrated because the INS is inefficient. And you are telling people, yes, we are going to do something. But what does this bill do? It does not do anything. All it does is take an inefficient agency and make it two inefficient agencies. And let me tell you that putting Barbara Jordan’s name on this bill will not make it a good bill. It does not make it a good bill. You cannot take a bad bill, give it a different name, and all of the sudden say that you have got a good work product. That does not work.

Doing something even if it is wrong is not in the public interest. And we can go home and tell America that we have solved America’s immigration problems. We have created an agency that will solve the problems with immigration and the problems with Mohammed Atta and all of the things, at the end of the day this bill does nothing. And we are doing a disservice to side-of-the-issue rather than facing it and dealing with it forthrightly within the agency that currently exists.

I know that the rest of this debate will be about how great this bill is. But we need to search our souls in this body. Is this about politics? Is this about people being able to go home and tell America that we did something. We did something. Well, you did something. Maybe that is what you have done to keep the dissent down because we have not heard any dissent about this bill. People are frustrated. Yes, they are frustrated because the INS is inefficient. And you are telling people, yes, we are going to do something. But what does this bill do? It does not do anything. All it does is take an inefficient agency and make it two inefficient agencies. And let me tell you that putting Barbara Jordan’s name on this bill will not make it a good bill. It does not make it a good bill. You cannot take a bad bill, give it a different name, and all of the sudden say that you have got a good work product. That does not work.

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I know that the rest of this debate will be about how great this bill is. But we need to search our souls in this body. Is this about politics? Is it about being able to go home and tell America that we have done something substantive to solve the immigration problems in this country, to solve the inefficiencies in this agency, or have we just transferred the problem down the hall? I believe that is what this bill does, and I plan to vote against it for that reason.

Mr. CONYERS. Mr. Chairman, I yield myself.

First of all, I want to thank my colleague for his very sobering interactive examination of this bill. It pains me that we are not on the same side, but I promise to work with him to make it as effective as we can. I remind him and all of our colleagues that this is the administrative part, the process part of the legislation towards INS. This is not the substantive issues being taken care of. And I cannot agree with my colleague, the gentleman from North Carolina (Mr. WATT), more, that dividing an ineffective agency into two does not make it a whole or well, and putting Ms. Jordan’s name on it does not help. Her name was not snatched from the air. The chairman of the committee conducted the study upon which this bill is built. If any of us are interested in why this bill was named after our colleague that formerly served on the Committee on Immigration and Claims of the Committee on the Judiciary.

Mr. GEKAŠ. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, everyone in the country knows that the status quo in the Immigration and Naturalization Service cannot be maintained. We must change it. We were taking a bold step today in concert with other studies and other precedents set that will take us down a path in which reform will really be possible within the purview of the Immigration and Naturalization Service.

I remember just like it was yesterday during the campaign of the year 2000 where then-Governor George Bush of Texas, the candidate for President, actually proposed that if he should become President he would move towards placing on his agenda the restructuring of the Immigration and Naturalization Service. Soon after the election then, many members, including the chairman and myself, began the work of reorganizing the INS pursuant to what we felt was a move on the part of the new President based on, as was indicated, Barbara Jordan’s commission recommendations and to behold today we are poised ready to put into practice what we have been preaching since the President began his movement towards new formation in the Immigration and Naturalization Service.

The beautiful part to me is, and one of the most attractive features of the new structure is, that we are going to be providing better service. We are providing better service in that portion of the Immigration and Naturalization Service that deals with new immigrants, and the process by which a new immigrant becomes an American citizen.

For the first time, the first time I repeat, we are elevating the art of citizenship to a new level to make it accessible to those who would cherish the oath of citizenship, they are really eager new Americans ready to take their part in our structure in our society for the betterment of all the people in our country. Better service is one of the indicators in the new structure that we are putting into place.

At the same time, we are providing better security because the law enforcement pillar of this new structure will focus on the enforcement of the new illegal portion of the populace insofar as deportation.

So now we have in front of us a potential new system in which we can place our full efforts to make it work. And that is why we are taking the chance, but it is a calculated chance on taking two structures and having them fold within themselves, extra effort to make immigration and naturalization work.

Ms. LOFGREN. Mr. Chairman, I yield 6 minutes to the gentlewoman from California (Ms. LOFGREN), who has worked hard on this matter.

Ms. LOFGREN. Mr. Chairman, I do not think there is anybody in the House, or for that matter in the country, who disagrees with the proposition that this is an agency that is a mess. If we took a poll probably it would win as the worst Federal agency. It might have some competition from the Bureau of Indian Affairs, but it is probably the worst Federal agency. The question is what to do about it. I voted against this bill because I fear that although there is no question that the authors and proponent have complete sincerity and have worked hard to fix the problem, I fear that some of the details in this bill may actually have the effect of making things worse. Some of the proposals that our colleagues and I are seeing. So by the time they come through the committee process, the committee really be possible within the purview of the Immigration and Naturalization Service.

Now, there is broad agreement that the enforcement and so-called benefits division would benefit from some separation, that there would be value in having some focus in each of those activities. After that is where we get the problem. Under the bill, the new Associate Attorney General that the bill creates to replace the current commissioner.

Now, there is broad agreement that the enforcement and so-called benefits division would benefit from some separation, that there would be value in having some focus in each of those activities. After that is where we get the problem. Under the bill, the new Associate Attorney General actually has a higher position than the current commissioner, but unfortunately does not have very much authority.

He does not have line authority over the two new bureaus that would be created, and I think that is a serious problem when we are looking to a strong management to fix the problems that are in this agency.

For example, I think there is a problem with the criteria that is within the bill for the selection of the new bureau chiefs; and I will just point out one
concern I have, which is the bureau chief for the new benefits division is required to be someone with 10 years of Federal benefit processing experience. That is a recipe to say we have got to have a bureaucrat, a long-term Federal bureaucrat head up this agency. And I would ask people within that role are the problem, they are not the solution. So I have a concern that we will end up regretting that provision of this act.

I also have a concern about the structure that will be embedded in law about the field office. One of the concerns that all of us who have worked with the Immigration Service have had over the years is the fiefdoms that exist in field offices throughout the United States. If someone goes to an office on the West Coast and they go to an office in the Midwest, they will get a different ruling on what the law is. That is ridiculous, but that is the way the Immigration Service is currently organized to be changed, and passage of this act will prevent that change from occurring.

The Office of Children’s Services I think is a step forward under current law, but it does not go as far as the bill that was introduced by Senator Feinstein in the other body, and myself on this side, and I hope that we could go further than is encompassed in this bill.

Finally, I believe that the issue of management really does need to be addressed in this bill. I had several amendments offered in committee that were withdrawn to avoid a sequential referral to another committee, but if we look at the culture that has grown within this agency, we have got middle managers who have been there for years. They know they are going to be there after the Commissioner or the Associate Attorney General, whoever it is, is gone.

We need to clean house in the management ranks. We have in the management ranks, this is an agency that is in the middle management of technology, because in addition to management weakness in the agency and in the middle management ranks, this is an agency that is in the dark ages technologically.

I was interested in the comments made by the chairman about the fingerprints. It is absolutely right. It is just crazy that we have people come in over and over and over again. The reason for that is, although the technology is available off the shelf, we have got the creation of microfiche and paper files. We have not implemented technology that is really necessary to get beyond the current state in this agency, and frankly I do not think there is the management capacity to even implement the technology is required in the agency.

I am hopeful that as this process moves forward, we will be able to address the issues that I have raised today, and I thank the chairman and the ranking minority, Senator Grassley, for the sincere and diligent efforts to reform this agency. Although I disagree on some components, I do recognize that they care a great deal about this, and I honor them for their work.

Mr. SENSENBRENNER. Mr. Chairman, I yield 6 minutes to the gentleman from Kentucky (Mr. ROGERS), who as chairman of the Committee on Appropriations, Subcommittee on Commerce, Justice, State and Judiciary, has been a leader in reforming the INS.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for Yielding me this time and for his comment. This is a day that I have long waited for and awaited, but with the leadership of the gentleman from Wisconsin (Mr. SENSENBRENNER), we have come together and crafted I think an excellent bill worthy of this Chamber’s support. And I deeply appreciate the time, the effort, the dedication to this cause that the gentleman from Wisconsin (Mr. SENSENBRENNER) has invested in bringing this legislation forward. He should be commended by all of us.

This bill differs a little from the reform bill that I had pending for a few years, with the gentleman from Texas (Mr. REYES) and the gentleman from Texas (Mr. SMITH), but it is a good bill. It goes, I think, 90 percent of the way that we need to go.

Mr. Chairman, the bill before the House is an essential piece of legislation. It will bring some accountability to this immigration system, and reforming and reorganizing the INS has been an issue near and dear to my heart as well as many others. Having taken myself several years ago in the appropriations subcommittee that funds the INS on which I have served some 19 years, including 6 as chairman, we have all seen firsthand the harm this agency has caused to our citizens because of its dysfunction and ineptitude.

We have seen it on the enforcement side where tens of thousands of illegal aliens storm our borders every year, and we have seen it on the service side where backlogs and mismanagement have left illegitimate applications waiting in line for years. I believe there is no greater privilege that this Nation can bestow on anyone than American citizenship, but unfortunately too many applicants have been let down by this system.

Simply put, and I have said it a hundred times, the INS is the worst-run agency in the United States Government. Its missions are inherently conflicting, but the same people. They are to punish those who violate the law, but on the other hand they are supposed to help people achieve the rights and privileges that our country affords them. In many cases, we are talking about the same people. There is confusion, frustration, not only among the rank-and-file employees, but the immigrants themselves.

It may be Congress’ ultimate failure in creating such a convoluted system, but we stand here before the House today, determined to fix it once and for all.

The answer is not more money. We have poured money on this agency and agreed to its pleas and justifications. The INS budget has grown over 300 percent in just the last 6 years, from a level of $1.58 billion in 1994 to today’s level of $5.5 billion. In fact, the INS account now consumes over 23 percent of the entire Department of Justice budget.

The answer is not more staffing for border control. We have increased border patrol agents dramatically, from 3,900 in 1993 to over 10,000 authorized positions today, and despite our generosity, INS over the years failed to completely hire the full number of agents funded by the Congress, diverting the money to other things.

Simply put, INS has been unable to effectively control the borders and has no strategy to remove people who overstay their limited visas. The only answer to this agency, I have come to believe, is to simply abolish it, dismantle, start over, and this bill achieves that by separating these conflicting missions of the INS.

The new Bureau of Citizenship and Immigration Service and the new Bureau of Immigration Enforcement will keep to their tasks and focus solely on their respective specialties, ultimately providing for the common good of the Nation. And, as has been said, a new Associate Attorney General will be created, giving immigration affairs the full credit and importance it deserves within the Justice hierarchy. This legislation will help secure the homeland and bring sanity to our immigration system.

The legacy left behind by INS is not a pretty picture; 8 million illegal aliens, some 40 percent, 2.8 million, being illegal overstays of certified visas that came here legally; a backlog of 5 million unadjudicated petitions for immigration benefits.

The citizenship U.S.A. debacle where thousands of individuals with criminal records were naturalized because the INS told the FBI we do not need the background checks, we will just go ahead and make them citizens.
The IDENT malfunction. INS spent $86 million on a failed alien identification system that resulted in the Border Patrol’s releasing serial killer Rafael Resendez-Ramirez, who was on the FBI’s 10 most wanted list, had criminal and State prison records, and had been deported from INS three different times. They let him loose.

Mr. Chairman, I urge the adoption of this bill. This is the way we need to go. Do away with an agency that cannot handle the mission we have given to it.

Mr. REYES. Mr. Chairman, I thank the gentleman from Michigan (Mr. SENSENBERNENR) and the gentleman from Wisconsin (Mr. CONyers) for their commitment to drafting a bipartisan bill that addresses the many needs of our immigration system. Therefore, I rise in strong support of the Barbara Jordan Immigration Reform Act.

The chairman and the ranking member are to be commended for working together and bringing a great bill to the House floor. As we discuss the issue of INS restructuring today, it is important to distinguish between the men and women in the field and the bureaucracy at INS headquarters when we talk about restructuring INS.

INS headquarters has failed the people who work for them more than anyone else. As a former border patrol agent, INS inspector, and chief patrol agent, I know about the sense of duty to one’s country and the pride in a job well done that the people who wear the INS uniform are committed to doing today. It is for the men and women in the field that we must restructure this agency.

There is no escaping the fact that INS is failing. Even those very reluctant to restructure the INS just a year ago are now advocating this same change. The bill we are debating today is the type of change we need. This change is more dramatic and effective than the White House plan which has changed again since the events surrounding the student visa debacle of a month ago. Late yesterday the White House endorsed this bill with conditions, expressing concern with some of the components of this bill. From my perspective, it is time for the White House to get engaged and support this bill without any restrictions.

I have seen more than five INS restructuring proposals from the Democratic and Republican administrations since I first arrived in Congress a little more than 5 years ago. I introduced two bills and have cosponsored many other restructuring bills with my colleagues from both sides of the aisle. I believe that INS needs a legislative remedy, not the shuffling of boxes that is currently being proposed from within INS again.

I strongly support restructuring the INS as a first step in the recovery of our national immigration system. After we restructure and place competent and experienced people at the head of each bureau, they must surround themselves with experts and they must listen.

I believe that the new bureau should follow the FBI model and surround the head of the bureau with experienced field personnel. Congress must remain committed to these new bureaus and the new Associate Attorney General more than ever to ensure the success of our national immigration system. This bill includes language stressing equally important roles of the immigration service’s bureau and the enforcement bureau and includes a sense of Congress that both bureaus must be adequately funded.

Finally, to my former colleagues in INS, I say to you that this bill expresses a commitment from a grateful Congress to provide you with the tools and the kind of organizational structure that will make a meaningful difference in your everyday duties and work.

Mr. SENSENBERNENR. Mr. Chairman, may we find out how much time is remaining on both sides.

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBERNENR) has 14½ minutes and the gentleman from Michigan (Mr. CONyers) has 11½ minutes remaining.

Mr. SENSENBERNENR. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Ms. HARRT).

Ms. HARRT. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of this immigration reform. It is a long overdue immigration reform. This, however, is the one reform that will work.

The INS has a well-documented history of being an unworkable bureaucracy despite the fact that there have been billions of dollars poured into the agency in the name of reform over the last several years. On a regular basis, my district offices received more complaints for help on immigration issues than on health care issues or Social Security issues combined.

The National Association of Counties has found that the complaints about the INS outnumbered IRS complaints six to one. That is hard to believe. Everyone expects that we are going to get calls about the IRS, but the INS? Six to one, Backlogs are the issue, undocumented aliens are the issue, expired visas are the issue. In fact, everything is the issue.

Still, it seems that the problems our constituents face are not unique regarding this troubled agency. It is just a troubled agency. In fact, the problem goes beyond the everyday operations of the INS and, as we know, has now risen to the level of national security.

The INS currently has a massive backlog. The recent approval of visa extensions for two of the deceased September 11 hijackers only serves to highlight the severe nature of this problem.

At the end of fiscal year 2001, the INS had a backlog of 4.9 million applications. That is 4.9 million people. That is a lot larger than a number of a dozen congressional districts put together. That is a lot of people. That is a lot of applications. These numbers represent families and hardworking individuals who are being torn apart because of these ridiculous administrative delays.

Numerous commissions, notably the Commission on Immigration Reform, chaired by the late Barbara Jordan, have reviewed the INS and most agree the major problem is mission overload. The INS is tasked with dual missions. It is imperative that we support this INS reform. It separates the missions, and it will be a real reform.

The AIA will consist of two separate bureaus, Citizenship and Immigration Services and the Bureau for Immigration Enforcement.

The Bureau of Citizenship and Immigration Services will work to improve (1) effectiveness, (2) response time and (3) service to immigrants.

The Bureau for Immigration Enforcement will solely focus on immigration security, ensuring it receives the level of attention and detail that it requires.

Separating the two bureaus will ensure a proper focus and resource allocation to each mission. It will relieve the problem of having an agency with conflicting missions.

In addition, the legislation creates an Associate Attorney General for Immigration. This new position answers directly to the Attorney General and ensures that immigration policy is given proper attention. The Associate Attorney General oversees the work of each bureau, supervises the bureau directors, coordinates the administration of national policy and reconciles conflicting policies.

Finally, the legislation addresses many of the bottlenecks in processing applications. First, the bill authorizes funding to process the entire current backlog. Second, the legislation mandates the creation of an Internet-based
application process. Third, the legislation facilitates the sharing of information across all pertinent agencies.

This legislation is a necessary step in fixing a broken immigration system. Efforts by prior administrations to make changes to the INS have failed, because they did not separate the conflicting functions of the government. Congress has increased appropriations to the INS by $4 billion over the past 10 years with little to show for it as a result.

This legislation mandates the necessary structural changes to reform our immigration system and protect our borders.

It is imperative to our future—in our country of immigrants that we support this restructuring.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Texas (Mr. GREEN), who has worked on this matter with us.

Mr. GREEN of Texas. Mr. Chairman, I thank the gentleman for yielding me this time to address the House. I have been following this bill with the gentleman from Texas (Mr. REYES) since 1997, when he first came to Washington, who has much expertise, with all his years with the Border Patrol and INS, and in dealing with the issue in my own district.

In recent years, it can take up to 3½ years to process green card applications. Immigrants must often wait long hours under extreme weather conditions before even sitting foot inside the INS office. And for most immigrants, the only time they will go. The separation of law enforcement from the naturalization process is so needed. I am glad that my colleague brought my attention to that in 1997 and that it is in the bill we are seeing today.

We must replace the INS and ensure all Americans their government is competent enough to distinguish between immigrants who are hard working and those who want to terrorize our citizens. This bill will replace the INS with an Agency for Immigration Affairs in the Department of Justice, headed by an Associate Attorney General for immigration affairs.

The two bureaus under this agency would have different responses, and that is what we need. And I want to thank the Chair of the Judiciary and the committee for bringing this bill out.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS), a member of the committee.

Mr. BACHUS. Mr. Chairman, when terrorists were positively identified, the INS could not program its computers to find out if they had any information on those terrorists. Not only that, but they issued them visas.

The story of the INS’ approval of terrorist visas illustrates that our immigration process is a total failure. But as is often the case, the people back in our districts and in our home States, they realize this before we do.

In fact, I got a letter from Michael Burns from my district in December. He describes an accident where a car hits his wife’s car and then a car piles into both of those. Both drivers were illegal aliens, no driver’s license and no documentation. When the police officer was asked what would happen to these people, how would they be kept up with? When I at the third party, would they be held accountable, they were told there is not an INS representative in Birmingham; that they were wasting their time; we are wasting our time.

What about a county sheriff who on this last visit to me that he stopped 15 illegal aliens in a van. There were drugs in the van, marijuana. They had no documentation and an expired driver’s license. He called the INS; he was told there is no one to deal with the problem. There is no one to deal with the problem.

Far more disturbingly, and let me close with this, are the illustrations of over 100,000 illegal aliens who have been brought before the courts and charged with crimes, convicted of crimes, and told to be deported. Are they deported? No. What happens? They receive a letter. They receive a letter. That is all.

This bill is one step in the right direction.

Mr. Chairman, I include for the record the letter I referred to earlier:

LIBERTY NATIONAL LIFE INSURANCE COMPANY, Birmingham, AL, December 17, 2001.

Congressman BACHUS: On Wednesday, December 12, 2001, my wife was involved in a traffic accident, while this is certainly not a Federal issue the events surrounding the accident I feel need to be brought to your attention. Her car was struck in the Hoover area by an illegal immigrant who spoke no English, carried no Alabama state driver’s license, had no employment at a local Mexican restaurant and has been in Alabama for over two years. The individual in the third car, who was also an illegal immigrant, had no license at all and no insurance. Additionally when my wife asked the Hoover officer at the accident site what would happen to this individual she was told ‘probably nothing, the State of Alabama does not allow us to deport them unless there is a crime committed with then goes through INS’. This came as a shock to both my wife the City of Hoover. I did some checking and was told there is not an INS representative in Birmingham full time. These individuals are in this country illegally, pay no U.S. taxes, are a financial and virtual walk away! While I am forced to pay a $500.00 deductible on my insurance to be able to get $2,100 worth of damages repaired. This is not only a matter of a consumer, a taxpayer, constituent, and loyal financial supporter of the Republican Party (in excess of $2,800 during the last election. PAC National and state party contributions, quite frankly I resent this type of conduct from the Federal Branch of our government. While I am actively pursuing action against this illegal alien for his actions, I do wonder what the government would like the government would have allowed this person to do.

Sincerely,

G. MICHAEL BURNS,
Vice President Mass Marketing.

Mr. CONYERS. Mr. Chairman, I yield 6 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE). No one has won a bigger battle on the Subcommittee than the ranking member on the Judiciary than the ranking member on the Subcommittee on Immigration and Claims; and I really want to praise her for her work.

(Ms. JACKSON-LEE of Texas asked and answered a question of general order to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member very much for yielding about an agency such as the INS, the experience and willingness to be engaged in the ongoing negotiations that have resulted in the legislation that is on the floor today, and I thank him for the kindness of his remarks.

There are many people to thank, Mr. Chairman. It is extremely important, of course, to acknowledge that this is a product of the Committee on the Judiciary, with 32 votes of the members of the Committee on the Judiciary on this particular legislation; and so there is much appreciation to be given the chairman of the full committee and of the subcommittee, along with the enormous help that we received from the diligence of our staff. In particular, I would like to acknowledge Avery Brown and Leon Buck of my staff for the work they did in this effort.

It seems when we come to the floor of the House on a day like today, talking about an agency such as the INS, we could become focused on the importance of the work that is being done, and I believe that this body, this forum, this House, is a place for vigorous debate, I acknowledge that we have had this day with this vigorous debate on the opposition to this legislation, and I think it is important that we have a full debate and that we listen to the concerns.

Let me join my colleague, the gentleman from Michigan (Mr. CONYERS), and say that I look forward to working with any number of Members to make sure we concern ourselves with an ongoing process. Even though this debate is not about the Mideast tragedies, I have always said that we move to resolve the tragedy of the Mideast is ongoing negotiations and peace negotiations.

In order to fix the INS, after we have abolished the INS, it will take all of us in an ongoing effort to ensure that the work is done and that we answer the concerns. I have been gratified to have been able to work with the Congressional Hispanic Caucus and other Members, including the chairman, the gentleman from Texas (Mr. REYES), on this.

We are grounded in the underpinnings of the U.S. Commission
on Immigration Reform, that our own former colleague, the late Barbara Jordan, headed. Her name, as the gentlewoman from Michigan (Mr. CONYERS) indicated, did not come randomly and is not in any way to undermine, diminish, or to suggest any irony in her selection. She did early on when we did not confront the horrors of terrorism and the heinous acts of September 11. Barbara Jordan’s commission sought, in the calmness of the day and the confusion of the times, to ensure that the INS, to begin the set the Nation straight.

I think she brought about a balance that we have tried to keep in this legislation. It is procedural, it is not of substance, but we do maintain the concept that immigration is in fact a part of a system of this Nation; that we are a Nation of laws, but we are a Nation of immigrants; that immigration does not equate to terrorism.

In the crafting of this bill we have tried to be careful of casting and denigrating hardworking immigrants who have come to this country simply to offer themselves, to share in the bounty but to work hard. Like those immigrants that I am working with, who happen to be Palestinians, a family of nine, who are in a detention center now even though one of their children is a United States citizen. Obviously, they are under the color of the terrible politics of the world in which we are working to ensure that those immigrants who owned a store that sold United States flags, can have the opportunity to access legalization.

This legislation answers the concerns of those who want to fix the INS. It abolishes the INS. And, yes, I stand by the words that I said earlier, this bill is a bill that draws together Americans, Democrats, Republicans, and others, because this bill is a work of a compromise of bills that were worked on by Republicans and Democrats in this House. That is the system in which we work.

This is a bill that has at the top the Associate Attorney General and divides the INS into two bureaus. But it is not a bureau that is in conflict or in confusion. It is a bureau, of course, that will work together. Two consistent bureaus of enforcement and services, one general counsel that will coordinate the laws of the United States, run the INS. There will be vertical coordination, where the district offices are coordinated with the Washington offices. There will be more support for the Border Patrol in enforcement. There will be a children’s bureau, so that unaccompanied minors can be protected. And, hopefully, the amendments that we pass will, in fact, work.

Lastly, Mr. Chairman, let me simply say, appropriations, money, will be guided to this agency. This service-oriented bureau, in particular, is fee generated, but we are going to discuss and debate an amendment that I hope my colleagues will accept that will provide for a study that will determine whether the fees that we are generating out of the service bureau is enough to make sure that my colleagues who have two and three and four staff members who are handling immigration in their district offices will in fact have the resources required.

Today, we abolish the INS; but we also stand on the premise that we are a Nation of immigrants and laws. It is extremely important that the message from the United States Congress in a bipartisan way in the words that I said earlier, this bill is a work of a compromise of laws, that immigration does not equate to terrorism.

I believe this is a bill that begins that, Mr. Chairman; and we will finish the job today. Mr. SENSENBERN, Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for yielding me this time.

There is a graphic we have here that some might think is too harsh when describing a government agency. It shows the INS going into the wastebasket of history. In reality, Mr. Chairman, it is not harsh enough. It ought to be going through a shredder on the way to a wastebasket. For this agency and what it has done, we need to shred it, gather the shreds, burn them, gather the ashes, and distribute them among the four corners of the world so this agency, as it is currently constituted, can never again come together and endanger our security and be a disgrace to this country as the INS has been.

Mr. Chairman, in years past, many might have looked at the problems with the INS, as we have heard chronicled here during this debate, and deemed them an irritant, a waste of money, a frustration.

However, now we know in the wake of the terrorist attacks of September 11, made successful in large part by the deficiencies in the INS, we now know that the problems with INS are more than an irritant, more than a waste of money, they are a threat to our Nation’s security. We can no longer ignore them.

The gentleman from Wisconsin (Mr. SENSENBERN) is doing the right thing here. He is putting the horse before the cart. We are restructuring this agency before we tackle all of the substantive immigration reforms, the visa reforms, and the citizenship reforms that we must do. If we do not restructure the INS first, any subsequent substantive changes to INS and to the immigration system or immigration categories will be doomed to failure. We must restructure first, and this bill does that.

While H.R. 3231 and its enactment cannot guarantee we will not have a future successful terrorist attack such as our Nation suffered on September 11, it is with certainty that its passage and enactment into law will give us a measure of confidence and security which we cannot ever hope to attain without it.

I commend the gentleman from Wisconsin (Mr. SENSENBERN) for this legislation. I urge its passage, and I commend the administration for its support.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I thank the chairman of the Committee on the Judiciary, the gentleman from Pennsylvania (Mr. GEKAS), and the ranking member, the gentlewoman from Texas (Ms. JACKSON-LEE) for taking us through an original bill that was not adequate. We worked on a substitute, and now we are able to come together in a bipartisan fashion that I think acquits the Committee on the Judiciary very well. I thank the chair and this committee has been able to accomplish that on more than one occasion, so I am delighted that we will now consider some amendments, many of them that we think will improve the bill. I think the committee had, in the end, said that we have the other body in which we will come together in a conference as soon as they finish their work product, and one of the key issues is going to be the relationship of the Associate Attorney General to that of the current Immigration and Naturalization Service Commissioner.

We have met with the Commissioner. He has been before our committee more than once, and I think that is an important issue where we ought to work carefully with the Senate, and hope that we can reach harmony.

The bill is a structural bill. It is a process bill. The substance of how we are going to improve the Immigration and Naturalization Service really awaits the further work of the committee in this body and that in the other body; but I am pleased that we can work with the administration and with our Republican colleagues on dealing with a matter that it is perfectly clear is long overdue for reform. Today is a very important first step in that direction.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBERN. Mr. Chairman can be said such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Wisconsin (Mr. SENSENBERN) regarding two provisions in section 11 of the bill. Mr. Chairman, I want to commend the chairman on a good bill which is
long overdue. However, it is my understanding that there are two provisions in section 11 that would create an additional requirement for discretionary appropriations. Specifically, subsection (b)(5) strikes a current fee collected by the INS to support the cost of processing certain immigrant applications, and subsection (b)(6) then authorizes appropriations for these applications. I further understand that this may require upwards of $1 billion over the next 4 years.

Mr. Chairman, is my understanding of these provisions correct?

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the gentleman’s understanding of the provisions is correct.

Mr. YOUNG of Florida. Mr. Chairman, I would like to point out that the current House budget resolution does not assume this additional requirement on discretionary appropriations. As a result, any funding for this provision, if passed, and implemented in fiscal year 2003, will have to come at the expense of reductions in other important funding priorities, including those for homeland security and the war on terrorism.

Given the current budget environment and the demands on spending that we face, will the chairman be amenable to reviewing the need for these provisions during the conference deliberations on his bill?

Mr. SENSENBRENNER. If the gentleman will continue to yield, I will be happy to review these provisions during the conference.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for the opportunity to clarify this matter.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

(Mr. GOODLATTE asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I commend the chairman of the Committee on the Judiciary for offering this very important legislation, and I am proud to be a cosponsor of the Barbara Jordan Immigration Reform and Accountability Act. This act is designed to address two very serious problems. The first: incompetent, neglected, and indifferent immigration officials, among those who seek to comply with our immigration laws have faced for many decades with the INS. The INS had a backlog of 4.9 million applications and petitions at the end of fiscal year 2001. That is totally unacceptable.

In some congressional offices, complaints about the Immigration and Naturalization Service outnumber IRS complaints by a factor of 6 to 1. In my office, I am told that it is several times more than that.

To give Members an example of the nature of this problem and the bureaucracy involved, because fingerprints that are taken by the INS for processing applications are only good for 15 months, some immigrants must have them taken 3 or 4 times while they wait for the INS to process their paperwork. Some people have to travel, great distances to do that, or wait long periods of time before they have somebody appear in the district when they can have it done.

Over 300,000 criminal and deportable illegal immigrants were ordered removed by immigration judges, and have fled; 6,000 of those are from countries identified as al Qaeda strongholds. This is the one problem that we have with our current immigration system, it is ignoring our national security problems.

If the INS officials were “following their own policies, Atta would have never been allowed to enter the United States” that, according to a 60 Minutes report on March 10 of this year.

We need to pass this legislation to support our President’s proposal. To break the INS into two parts is an idea whose time is long past due, for better security and better processing for our immigrants.

Mr. Chairman, I am proud to be a cosponsor of H.R. 3231, the Barbara Jordan Immigration Reform and Accountability Act, and I commend Chairman SENSENBRENNER on his leadership in introducing this legislation and moving it forward.

America has always been a nation of immigrants, people from varied backgrounds and distinct cultures who largely share a common desire for the freedoms and liberties, which are a birthright for native-born Americans. But with this rich heritage, vigilance is required from the federal government. We must be cognizant of who is entering the country, or we do our citizenry a disservice. With an estimated 8 million undocumented illegal immigrants residing in the United States, it is clear that the INS has failed in this duty.

There is no disagreement that the INS is in dire need of reform and the events of September 11 make it clear that the need for reform is more urgent than ever. Six months after the September 11 terrorist attacks, the Immigration and Naturalization Service mailed a letter to a flight school in Florida, notifying them that two of the hijackers, including alleged ringleader Mohammed Atta, had been approved for student visas.

It would be a monumental understatement to say that the INS is woefully ill-equipped to handle immigration in this era of heightened national security.

In addition to INS’s failure to adequately perform its enforcement responsibilities, INS has been inept in its service functions. My Congressional District offices, like those of every other Member of Congress, are inundated with complaints about INS. The INS had a backlog of 4.9 million applications and petitions at the end of FY 2001. Lost files, missing fingerprints, and lengthy delays are complaints that we hear on a daily basis. We owe our own citizens, as well as documented visitors and immigrants, the attention and support that they deserve.

Between 1993 and 2002, Congress nearly quadrupled INS’ operating budget. It is evident that piecemeal attempts to reform INS has been unsuccessful, and throwing more money and resources at INS has not solved its problems, which stem from competing priorities and missions within the agency.

It is time to acknowledge the failure of the current structure of INS and begin work to reorganize the agency. By separating the enforcement and service functions of the INS, H.R. 3231 will provide a clear mission, increase efficiency and ensure that the borders of America are protected from terrorism and other national security threats. I urge all of my colleagues to join me in voting for this important legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2½ minutes to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Mr. Chairman, I rise in support of H.R. 3231, which will improve enforcement of our Nation’s immigration laws and reduce the overwhelming backlog of applications for aliens wishing to enter the United States legally. The time has come to do our citizenry a disservice, but two of the September 11 hijackers. Six months after they died in their terrorist acts, the INS issued student visa approvals to them.

Clearly there is not only a need to restructure the INS, but also to reform our Nation’s immigration policies with respect to foreign student visas. I submitted an amendment to the Committee on Rules which would have established a 9-month moratorium on the issue of student visas to allow the INS or the new Bureau of Citizenship and Immigration Services under this legislation, time to fully implement the student exchange and visitor information system.

My amendment also would have required the names, ages, and other appropriate information of student visa holders, accompanying spouse, and children to be included on the student visa documentation.

I believe these reforms are critical if we are serious about preventing known terrorists from entering the United States. At least one of the September 11 hijackers was in the U.S. on an expired student visa. Had the INS fully implemented the tracking system, this terrorist may have been behind bars, not hijacking a commercial airplane.

Unfortunately, Mr. Chairman, my amendment was not made in order and cannot be considered here today. It was considered nongermane. It is my hope there will be an opportunity for Members to debate substantive immigration policy reform in the near future.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am happy to inform the gentleman and Members of Congress that...
The magnitude of the INS’s problems is extraordinary—at the end of FY2001, it had a backlog of 4.9 million applications and petitions, thus forcing aliens trying to play by the rules to wait in limbo for years. The Census Bureau estimates that at least 8 million undocumented aliens reside in the U.S. Over 1 million have been ordered removed by immigration judges have absconded. Much of the INS’s failure stems from the conflict between its enforcement and service missions. Mr. Chairman, the INS is unable to adequately perform either of its missions. It has proven unable to move from one crisis to the next, with no coherent strategy of how to accomplish both missions successfully.

Responding to this national security crisis, H.R. 3231 would abolish the Immigration and Naturalization Service (INS) in favor of two new organizations that concentrate solely on different missions—one that would administer immigration benefits and one that would enforce immigration laws. This legislation promotes law and order by increasing accountability and creating a position for checks and balances between the two bureaus. This bipartisan legislation ensures that the new INS bureaus will each have the proper mission and guidelines to assist those individuals who are ready to become U.S. citizens while cracking down on illegal immigrants and enforcing immigration laws and regulations. It will work to keep the terrorists out, but provide efficient and fair service to those that play by the rules when it comes to our immigration process. Additionally, this legislation will help to secure our homeland by placing a greater focus on immigration policy and making sure everyone is playing by the rules.

The Bureau of Citizenship and Immigration Services (BCIS) will concentrate on improving immigration services and reducing backlog issues for legal immigrants, while the Bureau of Immigration Enforcement (BIE) will deny admission to those that should be kept out of the U.S. BIE will also apprehend and remove those designated for deportation along the border and in the interior. Mr. Chairman, H.R. 3231 will create an Associate Attorney General in the Department of Justice who will only handle immigration affairs. The Associate Attorney General will supervise the two bureaus, resolve conflicts between them and help to hold the two bureaus accountable for their actions.

The INS has reorganized itself numerous times over the past two decades. Judging from its caseload and its failure to detect and deport terrorists, internal reorganization is not working. This bill creates a clear chain of command and greater accountability, and promises to improve service to our constituents. Mr. Chairman, I urge my colleagues to support this important national security legislation.

Mr. UDALL of New Mexico. Mr. Chairman, I rise today in support of H.R. 3231 and urge my colleagues to join me in voting for an important piece of legislation. This bill, inspired by the dedication and hard work of the late former Congresswoman Barbara Jordan of Texas, comes before the House at a crucial moment in our history. During the past several months, we have been told by diplomats that our Nation’s immigrant laws and agencies are in disrepair and in need of major structural changes. As a free Nation and open society built on the strength, ingenuity, hard work, and discipline of immigrants from around the world, this strikes us especially hard. I am pleased that the bill before us takes important steps toward improving our Government’s management of immigration while preserving the ability of immigrants to build new lives for themselves within the Democratic states.

I am pleased to support H.R. 3231 for several reasons, not the least of which is its innovative approach to the reorganization of the Immigration and Naturalization Service (INS). Beyond reorganizing the INS into a separate organization within the Department of Justice, this bill will also create several new offices dedicated to improving the quality of the service provided to immigrants and protecting the rights of unaccompanied child immigrants. The bill, by placing the two new bureaus under the direct supervision of a new Associate Attorney General with experience in managing large and complex organizations, will also increase the importance placed on our immigration policies and the accountability of those responsible for enforcing our laws.

The passage of H.R. 3231, the House will take an important first step in reforming the way the United States deals with immigration. The next step, addressing the security of our borders, will hopefully be taken soon. Together, today’s reforms along with upcoming immigration_strength will make America safer from those who would use our country’s openness to do us harm. These reforms will also preserve America’s commitment to remain open to immigrants who seek a better life and will reaffirm our long tradition of finding strength in our diversity. This will be a key part of the legacy of the 107th Congress, and I am pleased to cast my vote as we begin this important effort.

Ms. SCHAKOWSKY. Mr. Chairman, I rise in support of H.R. 3231, the Barbara Jordan Immigration and Reform Accountability Act. I agree that the Immigration and Naturalization Service is a broken agency that needs to be fixed. That is a point that has been underscored in the time since September 11 but was clearly a problem long before those tragic events occurred. The need for reform is at hand. The INS has been clear to me because of the difficulty constituents in my districts have had in dealing with the INS. My district staff spends approximately 80% of casework time on cases that have to do with problems with the INS. This has to change. Although I will vote for this legislation, I do have some concerns.

We must make the INS a better managed, more efficient, coordinated, and effective agency. I strongly believe, in order to accomplish those goals, the agency must be split into separate bureaus: one for border enforcement. H.R. 3231 allows the separate bureaus to focus on the distinct missions of providing services and enforcement.

Another core principle of effective reorganization is the coordination of immigration policy, legal direction, and information under the authority of a strong executive. Although this legislation creates a high level position of an Associate Attorney General for Immigration Affairs, this office is not responsible for setting immigration policy. Policy making is left to the individual bureaus. I also think the office which would have been set up in the Senate structure have been relegated to the service and enforcement bureaus, leading to duplicity within the overall agency. For example, each bureau
is to have an Office of Policy and Strategy and each bureau is to have a Chief Budget Officer. Given this structure, I am not certain that the Office of the Associate Attorney General will have the authority to effectively manage and coordinate the functions of these offices and create an effective immigration body.

As I have said, I have made strides toward elevating the Office of Children’s Affairs. I do not think this legislation adequately addresses the needs of unaccompanied minors, particularly concerned about the conditions under which children will be detained and held and whether they will have legal representation. These are children. We must create safeguards to protect them, not further traumatize them through imprisonment. We must also assure that they are appropriately counseled and represented as they navigate our extremely complicated immigration courts and systems. The only thing that this legislation specifies is that the Director of the OCA is responsible for “compiling, updating, and publishing the national list of all immigration officers.” How will that benefit an infant or a toddler who can not speak much less read? I hope that the Senate will work to strengthen this provision and push for language that is reflected in the Unaccompanied Alien Child Protection Act.

I am pleased that there are provisions to create an ombudsman office. It is essential that immigrants have someone at a high level addressing concerns and problems they are having with their cases. This office will also look at systemic problems in the INS structure. Advocates with whom I work in my district suggested it would enhance our level ombudsman and I hope the other body will consider those suggestions in its deliberations on similar legislation. I believe it is critical that an ombudsman not be restricted in accomplishing their job. It may be more effective to remove the ombudsman from the entire INS structure, placing it in the Department of Justice.

I am also pleased with provisions that require separate appropriations for asylum and refugee benefits to be processed. This will stop the backlog that has been occurring where fees from other INS benefits are being used to adjudicate asylum and refugee cases. I also understand there will be a study to further investigate how much services actually cost. I applaud the gentilewoman from Texas (Ms. JACKSON LEE) for offering that very important amendment to this bill.

I think it is important that we move to pass legislation to restructure the INS. We must take steps towards fixing the agency. While I support the bill, I urge the Senate to work on the concerns I have raised, and I look forward to seeing a better bill come out of conference and back to this chamber. I commend all members who have worked to bring this measure to pass.

Mr. LUMEMENAUR. Mr. Chairman, it is no secret that for decades, the Immigration and Naturalization Service (INS) has been beleaguered with complaints of mismanagement, ineffective border control and a growing backlog of immigrant applications and petitions. The events of September 11th underscored the need for an immigration overhaul. H.R. 3231 is a step in the right direction to improve this institution.

However, unless Congress and the Administration make immigration a priority and are willing to adequately fund its mission, then this structural division of INS will not make a difference. In order for immigration reform to be successful, the Administration must support:

The front end of the State Department. From Mexico City to Manila the consular corps are understaffed and overburdened. As people apply for entry in the U.S. abroad, we cannot strengthen INS without commensurate support for the State Department.

Adequate funding for services and law enforcement measures. Far too often, INS employees are being asked to do more and more without sufficient resources. The Federal Government must make it a priority to provide them with the tools they need to do their jobs effectively and efficiently.

Only when the several agencies involved in immigration—from the State Dept. to INS—can cooperate and implement a clear, concise, and consistent mission will immigration control reform itself. Without a history of mismanagement and ineffective border control, I support the passage of H.R. 3231.

Mr. CASTLE. Mr. Chairman, I want to thank Chairman SENSENBRENNER, Subcommittee Chairman GEXAS and the House Leadership for bringing up this legislation today to improve and revamp the Immigration and Naturalization Service (INS), and I am pleased to see that President Bush is behind the measure.

The United States must do a better job of protecting America’s borders, tracking foreign students and visitors, dealing with illegal aliens and enforcing our immigration processes by the INS. Over seven months have passed since the attacks of September 11, and many of the loopholes that the terrorists utilized to harm our nation, have not been addressed.

I am hopeful the President will have the opportunity to sign enhanced border security legislation regarding student visa reforms, smart card technology, reform of the visa waiver program, shared databases and integrated entry-exit data systems. These are good reforms but the reforms and technology are only as good as the people who administer the various programs and utilize the technology.

The INS has been a maligned agency that has had major difficulties implementing visa tracking programs and integrated entry-exit systems. A recent review by the Department of Justice Inspector General found that INS officials mismanaged $31 million aimed at automating a visa tracking system. To this day we are unable to seriously determine who is in this country at any given time. At the same time it is trying to address its enforcement problems. I support the Administration in those who rely on the INS to process their various immigration documents. The INS has long backlogs of Visa and other petitions. 4.9 million petitions were pending before the INS at the end of September 2001—this is a seven-fold increase from 1995.

The INS on several occasions has attempted to reform itself, but in the light of the immigration problems associated with the September 11 attacks, internal organizational changes will not work. Long time supervisors who have resisted change in the past are today running a bureau that needs to fundamentally reform the INS. While I believe Commissioner Ziglar is working hard to address the organizational and morale problems that have plagued the agency, legislation is the only way to turn the INS in the right direction.

Only legislative restructuring like H.R. 3231 can create two separate agencies that concentrate on different missions—administering immigration benefits and enforcing immigration laws. However, the INS is willing to create two new organizations that utilize their own budgets and dedicated employees who will be focused on their own distinct mission. I applaud this legislation because it will also create a new Ombudsman to monitor and improve the services side of the agency, create a new chain of command at the INS, and eliminate mission overload that is crippling the agency.

We owe it to the American people to improve our border security, track who is entering and exiting our country and expedite the process of timely immigration petitions. H.R. 3231 passed the House Judiciary Committee with great bipartisan support and I urge my colleagues to support H.R. 3231 today.

Mr. BENTSEN. Mr. Chairman, I rise in strong support of H.R. 3231, The Barbara Jordan Anti-Immigration Reform and Accountability Act, important legislation that makes much-needed reforms to our immigration system. For years, my immigration caseworker has related to me countless horror stories about the red tape and inefficiency at the Immigration and Naturalization Service (INS). That agency has been forced to send approval notices to two September 11 hijackers, and at the same time routinely enormous hurdles in the path of citizens-in-training.

Today’s legislation, which will address these many concerns, is the realization of two hard fought battles for the late Barbara Jordan. As chair of the U.S. Commission on Immigration Reform (CIR), Barbara Jordan recommended that the Federal immigration system be fundamentally restructured by, among other things, dismantling the INS. In 1997, the commission found that the INS suffered from conflicting priorities and mission overload, and its service and enforcement missions were incompatible.

More importantly, Barbara Jordan once said that the key to creating a harmonious society out of so many kinds of people “is tolerance—the one value that is indispensable in creating community.” Here today, we have the chance to give effect to her recommendations and fundamentally restructure the INS. Over the past decade, Congress has substantially increased the budget for the INS—from $1.4 Billion in FY 1992 to $5.6 Billion in FY 2002—in hopes of improving the agency’s performance. However, problems continue to plague the agency, particularly in the processing of immigration applications, the inability of the INS to systemically communicate to workers and to track workers, students and visitors once they arrive in the country.

Many of these problems result from the INS performing dual functions, holding the responsibility for enforcing immigration laws and adjudicating applications for non-immigrants and immigrants. Since 1990, when the Commission on Immigration Reform recommended re-structuring the INS, several legislative reform proposals have been introduced in Congress. One proposal which I co-sponsored, H.R. 3918, introduced by Representatives HAROLD ROGERS and VERN BACAUR, of the 106th Congress, would have separated the two functions of the INS into separate agencies. H.R. 3231 builds on that by abolishing the INS and...
replacing it with two separate bureaus—the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement. The two bureaus would be under the supervision of an associate attorney general, who would rank below the attorney general and deputy attorney general. The new structure would be designed to transform the Immigration and Naturalization Service (INS) into a modern immigration agency, focused on enforcing immigration laws and policies.

Additionally, the measure establishes an Office of Children's Affairs, which would be responsible for coordinating and implementing immigration law and policy for unaccompanied alien children who come into the custody of the Justice Department. Under the measure, the office would ensure that the interests of unaccompanied children are considered in the department's care, custody and placement determinations. I am pleased to note that this provision embodies legislation I am co-sponsoring, H.R. 1904, the Unaccompanied Alien Child Protection Act.

This overdue reform. I know in my state of Texas, and in the city of Houston, the backlog for citizenship applications can last upwards of 1 year, and adjustment of status— or greencard applications—have a backlog as long as 3 years or more. I am hopeful that the funding provided in this bill will address the backlog issue, which has presented a significant problem for hundreds-of-thousands of otherwise-eligible immigrants in Texas and across the Nation. Working with the Administration and my colleagues in the House, I look forward to enacting thoughtful immigration reforms that will embody the integrity of the naturalization process, while providing effective safeguards at our Nation's borders.

For all these reasons, Mr. Chairman, I urge my colleagues to join me in support of H.R. 3231, to honor the memory and accomplishments of the great Barbara Jordan, and to imbue efficiency and structure to our immigration system.

Mr. SMITH of Texas. Mr. Chairman, the Barbara Jordan INS Immigration Reform and Accountability Act, as signed by the President, provides a long-awaited solution to the problems within the INS.

At the end of 2001, the INS had a backlog of 4.9 million applications and petitions. With those numbers, no one should be surprised at the recent mishandling of terrorist visas. In fact, if the INS had been following their own policies, Mohammed Atta would have never been allowed even to enter the United States.

For years INS officials have promised reform—but have given us only talk with no action. This bill will provide that much-needed action.

H.R. 3231 will abolish the INS and replace it with two agencies—one to handle security and one to handle services. This will not only give immigration security the attention it deserves, but also will improve the quality of services provided to immigrants.

No longer will we hear of cases where an immigrant waited in line for 2 days to get a form and was never told that they could obtain it by simply calling a 1-800 number. No longer will we have student visas approved six months later for the very terrorists who attacked our nation. No longer will we have criminal aliens mistakenly or intentionally released.

We must act before it's too late. Ensuring we have an effective immigration system is vital to our homeland defense. We must pass this legislation today. I urge my colleagues to support this legislation.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 3231, the Barbara Jordan Immigration Reform and Accountability Act. Therefore, this Member would like to thank the Chairman of the Judiciary Committee, the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER) and the Ranking Member of the Committee, the distinguished gentleman from Michigan (Mr. CONVERS) for their efforts in crafting the bipartisan bill before the House today.

Certainly, this Member certainly supports efforts to structure the system through which critical immigration functions which are executed as provided in H.R. 3231. For many years, this Member has argued that strong immigration policies and well-functioning infrastructures are necessary to protect U.S. citizens from outbreaks of infectious disease and from crime, certainly including terrorism. As a result, immigration policies that allow terrorists to conduct the unspeakable and horrific terrorist attacks of September 11, 2001, there is increasing momentum to re-vamp the current immigration process.

Despite this Member's support for restructuring immigration, this Member does register his concerns about how immigration resources have been allocated in the past and how they might be allocated in the future as restructuring plans are implemented.

Mr. Chairman. Mr. Chairman, I think efforts of the Nebraska and Iowa congressional delegation, the changing immigration patterns in this country's heartland often go unexamined by Federal and congressional authorities. As a result, interior states such as Nebraska do not receive the resources they need to provide the necessary legal immigration services and to combat illegal immigration. Therefore, this Member is concerned that throughout the restructuring process, immigration resources for both services and enforcement will continue to be allocated, as some Federal agencies have done, according to the general population of a given region and without regard to geographic circumstances, including the vast regions of some of our more sparsely settled states. Indeed, this Member requests that the House apply very careful oversight to any immigration restructuring measures so that all legal immigrants, regardless of where they live in the U.S., can access the immigration services they need without having to travel extraordinary distances. Additionally, this Member requests similar oversight with regard to immigration enforcement resources so that the tools to enforce immigration policies are available in interior states, including Nebraska where alien smuggling along Interstate 80 and other national highways has become far too routine.

Mr. Chairman, this Member also wants to register his very strong support for the Nebraska Service Center in Lincoln, Nebraska. Currently, the center efficiently and effectively processes over 1.5 million immigration applications and documents each year. In fact, the center is often called upon to handle special, out-of-region projects due to its line record of efficiency and well-reputation. Additionally, due to a well-educated and professional workforce located in Lincoln, it is able to recruit and retain good employees. (Indeed, the retention of good employees will be the key to success for the overall restructuring efforts!) For this reason, this Member believes it is critical that, as any immigration re-structuring efforts are implemented, the Nebraska Service Center to remain in Lincoln, Nebraska.

For all these reasons, Mr. Chairman, I commend Judiciary Committee Chairman JAMES SENSENBRENNER and Ranking Member JOHN CONYERS for their work on bringing this bipartisan legislation H.R. 3231—The Barbara Jordan Immigration Reform and Accountability Act of 2002—to the House floor for consideration.

H.R. 3231 creates a new immigration system. It ensures that terrorist and illegal immigrants are kept out of our country. For too long our immigration system has been stuck in the dark ages allowing illegal immigrants and terrorists to slip silently into our nation. H.R. 3231 recognizes this and requires that Internet technologies be implemented to track immigration applications that can alert Americans now, not later when it's already too late, about illegal and terrorists threats to our liberties and homeland security.

Mr. Chairman, Americans have trusted and been patient with INS for far too long as they have completed numerous reorganiza-tions—reorganizations that have obviously not worked. INS's present mission to both admin-ister immigration benefits and enforce immi-gration law is blatantly at odds with each other.

Therefore, today we vote today to abolish the Immigration and Naturalization Service (INS).

I encourage my colleagues on both sides of the aisle to recognize what Americans have already concluded—that American immigration system needs a clear chain of command coupled with greater accountability. America demands an immigration system that secures our homeland by keeping illegal immigrants and terrorists out, while offering an efficient process for those legal immigrants coming to America to start a better life in a new country. H.R. 3231 secures our American principles of life, liberty and the pursuit of happiness.

Mr. TERRY. Mr. Chairman, I rise today in support of H.R. 3231, the Barbara Jordan Im-migration Reform and Accountability Act.

The Immigration and Naturalization Service (INS) is charged with enforcing immigration laws, such as deporting criminal or illegal aliens. It is also charged with processing those who lawfully immigrate to our country to par-take of the American dream. These conflicting mandates under one government agency have resulted in confusion and inefficiency.

In my home town of Omaha, Nebraska, for example, there is widespread frustration with the Immigration and Naturalization Service (INS). People must wait in long lines for hours on end to be served, and then wait months or even years for their applications to be processed. Last year alone, the Nebraska INS received more than fourteen thousand new immigration applications. At the end of the year it was running a backlog of almost seven hun-dred cases. With only three employees working four days a week, the service problems have not been adequately resolved.

Border and immigration security is of para-mount importance as we find, arrest, and
prosecute terrorists in order to protect the American public. On the other hand, legal im-
migrants seeking better jobs and family life in America must be treated with respect. Nation-
wide problems of law enforcement are con-
suming larger and larger portions of the INS budget. This occurs at the cost of the legal im-
migrants whose time and energy is spent less and less of the INS devoted to service.

When legal immigrants become less impor-
tant in the eyes of the INS, they become vic-
tims of the process. Law enforcement should not be the core of the INS, and the INS
should not compromise enforcement of our immigration laws. Dividing these responsi-
bilities by passing H.R. 3231 is a necessary, common-sense, cost-saving measure. I urge
my colleagues to join me in supporting this legislation to improve homeland defense and
protect the American dream.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of H.R. 3231. I am a co-sponsor
of this bill, which will help us begin to address chronic and longstanding problems at the Im-
migration and Naturalization Service. The re-
cent events and the INS process have taken
extensions for two of the dead September
11th hijackers and that INS inspectors allowed
Pakistanis to enter this country. The Congress
laws
have asked it to accomplish disparate tasks
both hats simultaneously, especially as we
are beginning of this long overdue restructuring. I
believe this bill will begin to take us in this direc-

The challenge we face is to implement
certain rules that will make our country more se-
cure without turning away from our tradition as
a nation of immigrants. I support H.R. 3231
because I believe this bill will begin to take us in this direction.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amend-
ment in the nature of a substitute in the bill shall be con-
considered as an original bill for the pur-
pose of amendment under the 5-minute
rule and shall be considered read.

The text of the committee amendment
in the nature of a substitute is as follows:

H.R. 3231

Be it enacted by the Senate and House of Repre-

sentatives of the United States in Congress
assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the "Barbara Jordan Immigration Reform
and Accountability Act of 2002".
(b) TABLE OF CONTENTS.—The table of con-
tents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Abolishment of Immigration and Natu-
ralization Service; establishment of Office of Associate At-
orney General for Immigration Affairs.
Sec. 3. Positions within Office of Associate At-
orney General for Immigration Affairs.
Sec. 4. Establishment of Bureau of Citizenship and
Immigration Services.
Sec. 5. Office of the Ombudsman.
Sec. 6. Establishment of Bureau of Immigration
Enforcement.
Sec. 7. Office of Immigration Statistics within
Bureau of Justice Statistics.
Sec. 8. Exercise of authorities.
Sec. 9. Scrutiny of determinations and rules;
and
Sec. 10. Transfer and allocation of appropria-
tions and personnel.

Other steps we have taken include passing
H.R. 1885, the Enhanced Border Security and
Visa Entry Reform Act, a bill I supported to
strengthen U.S. border controls and to im-
prove our ability to screen and keep track of
to keep those who enter this country. That bill would
also allow those who already qualify for immi-
grant benefits or whose family or employer
to repair plant and complete the process in the U.S.
also known as Section 245(i), this provision does
not grant an amnesty, gives immigrants the
right to work, or protect them from deportation
as a nation of immigrants. I support H.R. 3231
because I believe this bill will begin to take us in this direction.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amend-
ment in the nature of a substitute in the bill shall be con-
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Sec. 7. Office of Immigration Statistics within
Bureau of Justice Statistics.
Sec. 8. Exercise of authorities.
Sec. 9. Scrutiny of determinations and rules;
and
Sec. 10. Transfer and allocation of appropria-
tions and personnel.

Sec. 11. Authorization of appropriations; prohi-
bition on transfer of fees; leasing or acquisition of property; sense
of Congress.
Sec. 12. Reports and implementation plans.
Sec. 13. Application of Internet-based tech-
nologies.
Sec. 15. Effective date; transition.
Sec. 16. Conforming amendment.

SEC. 2. ABOLISHMENT OF IMMIGRATION AND NATURALIZATION SERVICE; ESTAB-
LISHMENT OF OFFICE OF ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS.

(a) ABOLISHMENT OF INS.—The Immigration
and Naturalization Service of the Department of Justice is abolished.

(b) ESTABLISHMENT OF OFFICE OF ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS.—

(1) IN GENERAL.—There shall be the Office of the Associate Attorney General for Immigration Affairs.

(2) ASSOCIATE ATTORNEY GENERAL.—The head
of the Office shall be the Associate Attorney General for Immigration Affairs. The Associate
Attorney General for Immigration Affairs—

(A) shall be appointed by the President, by and with the consent of the Senate; and

(B) shall have a minimum of 5 years of experi-
ence in managing a large and complex organiza-

(c) FUNCTIONS.—The Associate Attorney Gen-
eral for Immigration Affairs shall be responsible for—

(1) overseeing the work of, and supervising, the Director of the Bureau of Citizenship and Immigration
Services and the Bureau of Immigration Enforcement;

(2) coordinating the administration of na-
tional immigration policy, including coordi-

SEC. 3. POSITIONS WITHIN OFFICE OF ASSOCIATE ATTORNEY GENERAL FOR IMMIGRA-
TION AFFAIRS.

(a) POLICY ADVISOR.—

(1) IN GENERAL.—There shall be a position of Policy Advisor for the Associate Attorney General for Immigration Affairs.

(2) FUNCTIONS.—The Policy Advisor shall be responsible for—

(A) providing advice to the Associate Attorney General for Immigration Affairs on all matters relating to immigration and naturalization pol-
icy; and

(B) coordinating and reconciling the resolu-
tion of policy issues by the Bureau of Citizen-
ship and Immigration Services and the Bureau of Immigration
Enforcement.

(b) GENERAL COUNSEL.—

(1) IN GENERAL.—There shall be a position of General Counsel to the Associate Attorney General for Immigration Affairs.

(2) FUNCTIONS.—The General Counsel shall serve as the principal legal advisor to the Asso-
ciate Attorney General for Immigration Affairs. The General Counsel shall be responsi-
ble for—

(A) providing specialized legal advice, opin-
ions, determinations, regulations, and all other assistance to the Associate Attorney General for Immigration Affairs with respect to legal matters
affecting the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement;

(2) the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review and in other legal or administrative proceedings involving immigration services; and

(C) representing the Bureau of Immigration Enforcement in all exclusion, deportation, or removal proceedings before the Executive Office for Immigration Review, including in proceedings to adjudicate relief from exclusion, deportation, or removal, and in other legal or administrative proceedings involving immigration enforcement issues.

(3) LIMITATION.—Paragraph (2) shall not apply to the functions transferred under subsection (a) to the Office of Professional Responsibility and Quality Review, or to any of its components, unless otherwise provided in law.

(B) Inspecting the operations of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement; and

(C) providing an analysis of the management of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement.

(2) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with paragraph (1)(B) with respect to the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement, or any of their components, consideration shall be given to—

(A) the accuracy of the findings of fact and conclusions of law used in rendering the decision; and

(B) any fraud or misrepresentation associated with the decision; and

(C) the efficiency with which the decision was rendered.

(I) OFFICE OF CHILDREN’S AFFAIRS.—

(1) IN GENERAL.—There is established within the Office of the Associate Attorney General for Immigration Affairs an office to be known as the “Office of Children’s Affairs”. The head of the Office of Children’s Affairs shall be the Director of the Office of Children’s Affairs.

(2) FUNCTIONS.—The Director of the Office of Children’s Affairs shall be responsible for—

(i) developing and implementing policies for the care and custody of unaccompanied alien children who come into the custody of the Department of Justice;

(ii) ensuring that the interests of the child are considered in all determinations relating to the care and custody of an unaccompanied alien child;

(iii) making placement determinations for all unaccompanied alien children apprehended by the Attorney General or who otherwise come into the custody of the Department of Justice;

(iv) implementing the placement determinations made by the Office;

(v) implementing policies with respect to the care and placement of unaccompanied alien children;

(vi) identifying a sufficient number of qualified foster care agencies and private foster care organizations to take custody of unaccompanied alien children;

(vii) identifying a sufficient number of private foster care organizations to take custody of unaccompanied alien children;

(viii) overseeing the establishment and operation of foster care agencies, and in accordance with section 311 of the Violence Against Women Act (42 U.S.C. 3796k), the adoption of a uniform standard for the care and treatment of unaccompanied alien children; and

(ix) overseeing the establishment and operation of a program to provide guardians ad litem for unaccompanied alien children;

(x) locating unaccompanied alien children;

(xi) ensuring the safe and efficient transfer, transportation, and detention of unaccompanied alien children;

(xii) providing educational services to unaccompanied alien children;

(xiii) maintaining and implementing policies with respect to the care and custody of unaccompanied alien children;

(xiv) ensuring that unaccompanied alien children have access to educational services;

(xv) providing medical services to unaccompanied alien children;

(xvi) ensuring that unaccompanied alien children have access to medical services;

(xvii) ensuring that unaccompanied alien children have access to mental health services;

(xviii) ensuring that unaccompanied alien children have access to legal services;

(xix) ensuring that unaccompanied alien children have access to social services;

(xx) ensuring that unaccompanied alien children have access to religious services;

(3) LIMITATION.—Nothing in this subsection shall be construed to affect any of the functions performed by the Office of Professional Responsibility and Quality Review.

(4) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Children’s Affairs functions with respect to the care of unaccompanied alien children under the immigration laws of the United States vested by statute in, or performed by, the Commissioner of the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately before the effective date specified in section 15(a).

(B) DUTIES WITH RESPECT TO FOSTER CARE.—

In carrying out the duties described in subparagraph (A), the Director of the Office of Children’s Affairs shall assess the extent to which it is cost-effective to use the refugee children foster care system for the placement of unaccompanied alien children.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, the Bureau of Immigration Enforcement, the Executive Office of Immigration Review, or the Department of State.

(D) DEFINITION.—As used in this subsection—

(I) the term “placement” means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(II) the term “unaccompanied alien child” means a child who—

(a) has no lawful immigration status in the United States;

(b) has not attained 18 years of age; and

(c) with respect to whom—

(I) there is no parent or legal guardian in the United States; or

(II) there is no parent or legal guardian in the United States and is available to provide care and physical custody.

(h) TRANSFER OF FUNCTIONS OF OFFICE OF IMMIGRATION LITIGATION.—There are transferred
from the Assistant Attorney General, Civil Divi-
sion, to the Associate Attorney General for Immi-
gration Affairs all functions performed by the
Office of Immigration Litigation, and all per-
sonnel, infrastructures, and funding provided to
the Assistant Attorney General, Civil Division,
in support of such functions, immediately before
the effective date specified in section 15(a). The
Associate Attorney General for Immigration Af-
fairs may, in the Associate Attorney General’s
discretion, charge the General Counsel to the
Associate Attorney General for Immigration Af-
fairs with such functions.

(i) EMPLOYER DISCIPLINE FOR WILLFUL DE-
CEIT.—The Associate Attorney General for Immi-
gration Affairs may, notwithstanding any other
provision of law, impose disciplinary ac-
tion, including termination of employment,
pursuant to policies and procedures applicable
to employees of the Federal Bureau of Investiga-
tion, on any employee of the Office of the Asso-
ciate Attorney General for Immigration Affairs.

SEC. 4. ESTABLISHMENT OF BUREAU OF CITIZEN-
SHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established in the
Department of Justice a bureau to be known as the
“Bureau of Citizenship and Immigration Services”.

(2) DIRECTOR.—The head of the Bureau of
Citizenship and Immigration Services shall be the
Director of the Bureau of Citizenship and Immi-
gration Services, who—

(A) shall be appointed by the Associate
Attorney General for Immigration Affairs; and
(B) shall have a minimum of 10 years profes-
sional experience in the rendering of adjudica-
tions in citizenship and immigration affairs in
the government, and in the performance of such
services, at least 5 of which shall have been
years of service in a managerial capacity or in
a position affording comparable management ex-
perience.

(3) FUNCTIONS.—The Director of the Bureau of
Citizenship and Immigration Services—

(A) shall establish the policies for performing
such functions; and

(B) shall oversee the administration of such
policies.

(C) shall advise the Associate Attorney Gen-
eral for Immigration Affairs with respect to any
policy, program, or function of the government
or any bureau with respect to Immigration
Affairs that may affect the Bureau of Immigration Enforcement, including
potentially conflicting policies or operations;

(D) shall meet regularly with the Ombudsman
to examine and correct serious service problems identified by the
Ombudsman; and

(E) shall establish procedures requiring a for-
mal recommendation to be transmitted to the Director
in the Ombudsman’s annual report to the Con-
gress within 3 months after its submission to the Congress.

(ii) FLENT VISA PROGRAMS.—The Director of
the Bureau of Citizenship and Immigration
Services shall designate an officer to be respon-

(g) OFFICE OF CITIZENSHIP.—There is estab-
lished in the Bureau of Citizenship and Immi-
gration Services an office to be known as the
“Office of Citizenship”. The head of such office
shall be the Chief of the Office of Citizenship.
The Chief shall be responsible for promoting in-
struction and training on citizenship responsi-

(b) TRANSFER OF FUNCTIONS FROM COM-
MISSIONER.—There are transferred from the Com-
nissioner of the Immigration and Naturalization
Service to the Director of the Bureau of Citizen-
ship and Immigration Services the following functions, and all personnel, infrastructure,
and functions associated with such functions—

(1) Adjudications of nondimmigrant and immi-
gration status for individuals;

(2) Adjudications of naturalization petitions;

(3) Adjudications of asylum and refugee appli-
cations;

(4) Adjudications performed at service centers;

(5) All other adjudications performed by the
Immigration and Naturalization Service imme-
surably before the effective date specified in sec-
tion 15(a).

(c) OFFICE OF POLICY AND STRATEGY.—There
is established in the Bureau of Citizenship and
Immigration Services an office to be known as the
“Office of Policy and Strategy”. The Director of
the Office of Policy and Strategy shall be the
Chief of the Office of Policy and Strategy. In
consultation with Bureau of Citizenship and
Immigration Services personnel in field offices,
the Chief of the Office of Policy and Strategy
shall be responsible for—

(1) establishing national immigration services
policies and priorities;

(2) performing policy research and analysis on
immigration services issues;

(3) coordinating immigration policy issues with
the Chief of the Office of Policy and Strategy
in the Bureau of Immigration Enforcement
function of the Office of Citizenship and Immi-
gration Services through the Policy Advisor for
the Associate Attorney General for Immigration
Affairs, as appropriate.

(ii) LEGAL ADVISOR.—There may be a position
of Legal Advisor for the Bureau of Citizenship
and Immigration Services.

(c) CHIEF BUDGET OFFICER FOR BUREAU OF
CITIZENSHIP AND IMMIGRATION SERVICES.—There
shall be a position of Chief Budget Officer for
the Bureau of Citizenship and Immigration
Services. The Chief Budget Officer shall be re-

(d) LEGAL ADVISOR.—Notwithstanding any other
provision of law, the Direc-
tor of the Bureau of Citizenship and Immi-
gration Services may, in the Director’s discretion,
transmit recommendations to the service center
director, field director, or service center director.

(i) MISSION.—It shall be the mission of the
field offices and service centers of the Bureau of Citizenship and Immigration Services to directly
and consistently follow all instructions and
guidelines of the Director of the Bureau of Citi-
zenship and Immigration Services and the Asso-
ciate Attorney General for Immigration Affairs in
order to ensure the development of a cohesive and consistent national immigration policy.

(ii) REFERENCES.—With respect to any func-
tion transferred by this section, Act to, or
exercised on or after the date specified in section 15(a) by, the Director of the Bureau of Citizenship and Immigration Services
any reference in any other Federal law, Execu-
tive order, rule, regulation, or delegation of au-
thority, or any document of or pertaining to a com-
ponent of government from which such function is
transferred—

(1) to the head of such component is deemed
to refer to the Associate Attorney General for
Immigration Affairs; or

(2) to such component is deemed to refer to
the Office of the Associate Attorney General for
Immigration Affairs.
(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers are having problems in dealing with the Bureau of Citizenship and Immigration Services;

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2); and

(4) to identify potential legislative changes that may be appropriate to mitigate such problems.

(b) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each year, on or before the Ombudsman shall report to the Committee on the Judiciary of the United States House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the initiatives the Office of the Ombudsman has taken on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the underlying causes of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman considers advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1), and any prior review or comment from the Attorney General, Associate Attorney General for Immigration Affairs, any other officer or employee of the Department of Justice or the Office of Management and Budget.

(c) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall work cooperatively with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to propose recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(d) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal, with or without cause) to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Ombudsman and the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman’s responsibilities under this subsection.

(e) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal memorandum of disapproval or endorsement to be submitted to the Director of the Office of the Ombudsman within in 3 months after submission to such director.

(f) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department of Justice, the Ombudsman shall be responsible for Immigration Affairs, an office of the Attorney General, for Immigration Affairs and report directly to the Congress through the Ombudsman; and

(D) at the local ombudsman’s discretion, may determine not to accept Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the Ombudsman shall maintain a phone, facsimile, and electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 6. ESTABLISHMENT OF BUREAU OF IMMIGRATION ENFORCEMENT.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established in the Department of Justice a bureau to be known as the “Bureau of Immigration Enforcement”.

(2) DIRECTOR.—The head of the Bureau of Immigration Enforcement shall be the Director of the Bureau of Immigration Enforcement, who—

(A) shall report directly to the Associate Attorney General for Immigration Affairs; and

(B) shall have a minimum of 10 years professional experience in law enforcement, at least 5 of which shall have been years of service in a managerial capacity.

(3) FUNCTIONS.—The Director of the Bureau of Immigration Enforcement—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in such officer in carrying out the Director’s functions;

(B) shall oversee the administration of such policies; and

(C) shall advise the Associate Attorney General for Immigration Affairs with respect to any policy or operation of the Bureau of Immigration Enforcement that may affect the Bureau of Citizenship and Immigration Services, including potentially conflicting policies or operations.

(b) TRANSFER OF FUNCTIONS.—There are transferred from the Commissioner of the Immigration and Naturalization Service to the Director of the Bureau of Immigration Enforcement—

(1) the functions of the Immigration and Naturalization Service,

(2) all personnel, infrastructure, and funding provided to the Commissioner in support of such programs immediately before the effective date specified in section 15(a):

(1) THE BORDER PATROL PROGRAM.

(2) THE DETENTION AND REMOVAL PROGRAM.

(3) THE INTELLIGENCE PROGRAM.

(4) THE INVESTIGATIONS PROGRAM.

(5) THE INSPECTIONS PROGRAM.

(c) OFFICE OF POLICY AND STRATEGY.—There is established in the Bureau of Immigration Enforcement an office to be known as the “Office of Policy and Strategy”. The head of the Office of Policy and Strategy shall be responsible for—

(1) establishing national immigration enforcement policies and priorities;

(2) performing policy research and analysis on immigration enforcement trends;

(3) coordinating immigration policy issues with the Chief of the Office of Policy and Strategy for the Bureau of Citizenship and Immigration Services and the Associate Attorney General for Immigration Affairs through the Policy Advisor for the Associate Attorney General for Immigration Affairs, as appropriate.

(d) LEGAL ADVISOR.—There may be a position of Legal Advisor for the Bureau of Immigration Enforcement.

(e) CHIEF BUDGET OFFICER FOR THE BUREAU OF IMMIGRATION ENFORCEMENT.—There shall be a position of Chief Budget Officer for the Bureau of Immigration Enforcement. The Chief Budget Officer shall be responsible for formulating and executing the budget of the Bureau of Immigration Enforcement. The Chief Budget Officer shall report to the Director of the Bureau of Immigration Enforcement and shall provide information to, and coordinate resolution of relevant issues with, the Chief Financial Officer for the Associate Attorney General for Immigration Affairs.

(f) OFFICE OF CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS.—There is established in the Bureau of Immigration Enforcement, an office to be known as the “Office of Congressional, Intergovernmental, and Public Affairs”. The head of such office shall be the Chief of the Office of Congressional, Intergovernmental, and Public Affairs. The Chief shall be responsible for—

(1) providing information relating to immigration enforcement to the Congress, including information on specific cases relating to immigration enforcement;

(2) serving as a liaison with other Federal agencies on immigration enforcement issues; and

(3) coordinating with the Departments of Justice and the general public on immigration enforcement issues.

(g) SECTORS.—Headed by sector directors, and located in appropriate geographic locations, sectors of the Bureau of Immigration Enforcement shall be responsible for directing all aspects of the operations of the Bureau of Immigration Enforcement within their assigned geographic areas of activity. Sector directors shall provide general guidance and supervision to the field offices of the Bureau of Immigration Enforcement within their sectors.

(h) FIELD OFFICES.—Headed by field directors, who may be assisted by deputy field directors, offices of the Bureau of Immigration Enforcement shall be responsible for directing all aspects of the operations of the Bureau of Immigration Enforcement within their assigned geographic areas of activity. Field directors shall be subject to the general supervision and direction of their respective sector director, except that field directors outside of the United States shall be subject to the general supervision and direction of the Director of the Bureau of Immigration Enforcement. All field directors shall remain accountable to, and receive their authority from, the Director of the Bureau of Immigration Enforcement, in order to ensure consistent application and implementation of policies nationwide. There shall be a field office of the Bureau of Immigration Enforcement stationed at least in each location where there is situated a field office of the Bureau of Citizenship and Immigration Services.
transfer and removal. Notwithstanding any other provision of law, the Director of the Bureau of Immigration Enforcement may, in the Director's discretion, transfer or remove any sector director, field director, or chief patrol officer.

(k) REFERENCES.—With respect to any function transferred by this section or Act to, and exercised by, the Director of the Bureau of Immigration Enforcement, any reference in any other Federal law, Executive order, rule, regulation, or any other reference to the Office of Immigration Statistics shall be deemed to refer to the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Enforcement, and the Executive Office for Immigration Review.

SEC. 8. EXERCISE OF AUTHORITIES.

(a) IN GENERAL.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this Act may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in section 15(a).

(b) PRESERVATION OF ATTORNEY GENERAL'S AUTHORITY.—In general.—Any function for which this Act vests responsibility in an official other than the Attorney General, or which is transferred by this Act to such an official, may, notwithstanding any provision of this Act, be performed by the Attorney General, or the Attorney General's delegate, in lieu of such official.

(2) TRANSFER OF FUNCTIONS.—Any function for which the Attorney General performs a function described in paragraph (1), any reference in any other Federal law, Executive order, rule, regulation, or any other reference to the Office of Immigration Statistics shall be deemed to refer to the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Enforcement, and the Executive Office for Immigration Review.

SEC. 9. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, licenses, contracts, agreements, records of labor organizations, certificates, licenses, and privileges—

(1) that have been made, issued, granted, or transferred to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, or any other officer or employee of the Department of Justice; or

(2) that are in effect on the date of the Act (or section had not been enacted).

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or any other Federal official.

(b) PROCEEDINGS.—Sections 4 and 6 and this section shall not affect any proceedings or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date specified in section 15(a) before an office whose functions are transferred by this Act, but such pending applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

This Act shall not affect suits commenced before the effective date specified in section 15(a), and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred by this Act, shall abide by reason of the enactment of this Act.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer or employee is party to a suit with respect to a function of the Attorney General, or to which this Act (or an amendment made by this Act) such function is transferred to any other officer or office, then such suit shall be continued with the same officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this Act, any statutory requirements relating to notice, hearings, action upon the record, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred by this Act, shall apply to such a proceeding.

SEC. 10. TRANSFER AND ALLOCATION OF APPROPRIATIONS.

(a) IN GENERAL.—The functions of the Department of Justice transferred to any other component or bureau. Unexpended funds transferred pursuant to this subsection shall continue in effect only for such function transferred to the appropriate component or bureau. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated. The Attorney General shall have the
right to adjust or realign transfers of funds and personnel effected pursuant to this Act for a period of 2 years after the effective date specified in section 15(a).

(b) REORGANIZATION AND ASSIGNMENT.—Except as otherwise expressly prohibited by law or otherwise provided in this Act, of the Associate Attorney General for Immigration Affairs, the Director of the Bureau of Citizenship and Immigration Services, and the Director of the Bureau of Immigration Enforcement, the person to whom functions are transferred under this Act may delegate any of the functions so transferred to such officers and employees of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement, respectively, as the person may designate, and may authorize successive delegations of such functions as may be necessary or appropriate.

No delegation of functions under this subsection or under any other provision of this Act shall relieve the official to whom a function is transferred under this Act of responsibility for the administration of the function.

(c) AUTHORITIES OF ATTORNEY GENERAL.—The Attorney General, or a delegate of the Attorney General, at such time or times as the Attorney General (or the delegate) shall provide, may make such determinations as may be necessary with respect to the functions transferred under this Act, and may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds held, used, or acquired by the Attorney General, or a delegate of the Attorney General, in connection with such functions, as may be necessary to carry out the provisions of this Act. The Attorney General shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(d) DATABASES.—The Associate Attorney General for Immigration Affairs shall ensure that the databases of the Office of the Associate Attorney General for Immigration Affairs and those of the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement are integrated with the databases of the Executive Office for Immigration Review in such a way as to permit—

(1) a more timely processing of each case by date of service upon the alien of the notice to appear in the case of a removal proceeding (or an order to show cause in the case of a deportation proceeding) to appear in the case of an exclusion proceeding); and

(2) the tracking of the status of any alien throughout the alien’s contact with United States authorities, with respect to whether the entity with jurisdiction over the alien is the Bureau of Citizenship and Immigration Services, the Bureau of Immigration Enforcement, or the Executive Office for Immigration Review.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS; PROHIBITION ON TRANSFER OF FEES; LEASING OR ACQUISITION OF PROPERTY; SENSE OF CONGRESS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to effect the abolition of the Immigration and Naturalization Service, the establishment of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement and their components, and the transfers of functions required to be made under this Act (and the amendments made by this Act) to perform any other functions related to the reorganization of the immigration and naturalization functions that is made necessary by this Act (or any such amendment).

(2) TRANSITION.—There shall be deposited into the Account all amounts appropriated under paragraph (1) shall remain available until expended.

(b) TRANSITION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the “Immigration Reform and Transition Account” (in this paragraph referred to as the “Account”).

(2) USE OF PROCEEDS.—There shall be deposited into the Account amounts appropriated under paragraph (1).

(c) ADVANCED AVAILABILITY OF FUNDS.—To the extent necessary to carry out the provisions of this Act, funds in the Account shall be available for expenditure before the effective date specified in section 15(b).

(1) SEPARATION OF FUNDING.—

(1) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for: (A) amounts deposited in the Account available for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

(d) BUDGETS.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement are able to carry out the functions assigned to them by this Act, the Attorney General shall provide, may authorize successive redelegations of such functions as may be necessary or appropriate.

(e) ELIMINATION OF LIMITATION ON EXPENDITURES FOR BACKLOG REDUCTION.—Section 204(b) of the Immigration Services and Infrastructure Improvement Act of 2000 (8 U.S.C. 1357(b)) is amended by striking paragraph (1).

SEC. 12. REPORTS AND IMPLEMENTATION PLANS.

(a) DIVISION OF FUNDS.—The Attorney General, not later than 120 days after the date of the enactment of this Act, shall submit to the Committees on Appropriations of the Senate and of the House of Representatives a report detailing the allocation of funds, appropriated under this Act, among the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement.

(b) DIVISION OF PERSONNEL.—The Attorney General, not later than 120 days after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the United States House of Representatives and of the Senate an implementation plan to carry out the purposes of this Act.

(c) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—The Attorney General, not later than 120 days after the date of the enactment of this Act, and every 6 months thereafter until the date that is 2 years after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the United States House of Representatives and of the Senate an implementation plan to carry out the purposes of this Act.

(2) CONTENTS.—The implementation plan shall include details concerning the separation of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such offices and bureaus.

(D) The procedures for the Director of Shared Services to perform all shared support functions, including authorizing the Director of the Bureau of Citizenship and Immigration Services and the Director of the Bureau of Immigration Enforcement to approve training curricula and to acquire such supplies and equipment as may be necessary to perform the daily operations of the Director.

(E) Procedures to establish separate accounts and financial management systems for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement, and to implement all provisions of section 11(b).

(F) Fraud detection and investigation.

(G) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(H) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and the administrative regulations prescribed under such Act.

(3) ADMINISTRATION.—

(1) In General.—The Implementation Plan shall include—

(A) Establishment of a transition team.

(B) Ways to phase in the cost of separating the administrative support systems of the Immigration and Naturalization Service, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement and their components, and the transfers of functions required to be made under this Act (and the amendments made by this Act) to perform any other functions related to the reorganization of the immigration and naturalization functions that is made necessary by this Act (or any such amendment).

(C) A Report on improving immigration services.

(2) In General.—The Attorney General, not later than 120 days after the date of the enactment of this Act, shall submit to the Committees on the Judiciary and Appropriations of the United States Congress, a report on the transition to the new immigration and naturalization functions that is made necessary by this Act and the amendments made by this Act.
States House of Representatives and of the Senate a report containing a plan for how the Director of the Bureau of Citizenship and Immigration Services will complete efficiently, fairly, and promptly the transfers of functions performed under the provisions described in paragraphs (1) through (5) of section 4(b).

(2) CONTENTS. For each type of adjudication to be transferred by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(A) Any potential savings of resources that may be expected without affecting the quality of the adjudication.

(B) The goal for processing time with respect to the adjudication.

(C) Any statutory modifications with respect to the adjudication that the Attorney General considers advisable.

(3) CONSULTATION.—In carrying out paragraph (1), the Attorney General shall consult with the Secretary of State, the Secretary of Labor, the Associate Attorney General for Immigration Affairs, the Director of the Bureau of Immigration Enforcement, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process, and making recommendations described in section 4(b) and related processes.

(4) REPORT ON IMPROVING ENFORCEMENT FUNCTION.—

(1) IN GENERAL.—The Attorney General, not later than 1 year after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the United States House of Representatives and of the Senate a report with a plan detailing how the Bureau of Immigration Enforcement, after the transfer of functions performed under the paragraphs described in paragraphs (1) through (5) of section 4(b), will enforce comprehensively, effectively, and fairly all the enforcement provisions of this Act.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the effective date specified in section 15(a) of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such programs.

(u) R EPORT ON IMPROVING ENFORCEMENT FUNCTION. Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the status of the filing involved.

(v) The report should also address whether it would be more efficient to transfer one or more of the functions described in sections 4(a) through (4) to the Office of the Associate Attorney General for Immigration Affairs, and shall include an estimate of the cost of any such transfer that the Attorney General recommends.

(2) CONTENTS. For each type of adjudication to be transferred by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(A) Any potential savings of resources that may be expected without affecting the quality of the adjudication.

(B) The goal for processing time with respect to the adjudication.

(C) Any statutory modifications with respect to the adjudication that the Attorney General considers advisable.

(3) CONSULTATION.—In carrying out paragraph (1), the Attorney General shall consult with the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of Labor, the Commissioner of Social Security, the Associate Attorney General for Immigration Affairs, the Director of the Bureau of Immigration Enforcement, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process, and making recommendations described in section 4(b) and related processes.

(4) REPORT ON IMPROVING ENFORCEMENT FUNCTION.—

(1) IN GENERAL.—The Attorney General, not later than 1 year after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the United States House of Representatives and of the Senate a report with a plan detailing how the Bureau of Immigration Enforcement, after the transfer of functions performed under the paragraphs described in paragraphs (1) through (5) of section 4(b), will enforce comprehensively, effectively, and fairly all the enforcement provisions of this Act.

(f) REPORT ON SHARED SERVICES.—

(1) ESTABLISHMENT.—The Attorney General shall establish, not later than 60 days after the date of the enactment of this Act, an advisory committee (in this section referred to as the “Technology Advisory Committee”) to assist the Attorney General,

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b). The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the United States House of Representatives and the Senate.

(C) COMPOSITION.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an efficient and effective manner, and of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(I).

SEC. 15. EFFECTIVE DATE; TRANSITION.

(a) IN GENERAL.—The abolishment of the Immigration and Naturalization Service, the establishment of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement, the transfers of functions specified under this Act, and the amendments made by this Act shall take effect 1 year after the date of the enactment of this Act. The Associate Attorney General for Immigration Affairs, the Director of the Bureau of Citizenship and Immigration Services, and the Director of the Bureau of Immigration Enforcement shall be appointed not later than such effective date. To the extent that functions to be transferred to such persons under this Act continue to be performed by the Immigration and Naturalization Service and the Office of Immigration Litigation of the Civil Division during fiscal year 2003, the Attorney General shall provide for an appropriate accounting of funds and an appropriate transfer of funds appropriated to such entities to the appropriate component of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement.

(b) COMMISSION PERIOD FOR CERTAIN BUREAU FUNCTIONS.—Notwithstanding subsection (a), during the 18-month period after the transfer of functions under this Act takes effect, the Associate Attorney General for Immigration Affairs is authorized to perform the functions described in subsections (c), (d), and (f) of each of sections...
functions performed by such bureau; and (ii) work in at least one field office and one border patrol sector of such bureau.

(B) REPORT.—Not later than 2 years after the effective date specified in section 17(a), the Attorney General shall submit a report to the Congress on the implementation of such program.

Page 33, line 3, strike "15(a)" and insert "17(a)".

Page 37, line 3, strike "15(a)" and insert "17(a)".

Page 38, line 14, strike "15(a)" and insert "17(a)".

Page 39, line 16, strike "15(a)" and insert "17(a)".

Page 40, line 18, strike "15(a)" and insert "17(a)".

Page 42, line 16, strike "15(a)" and insert "17(a)".

Page 43, line 6, strike "15(a)" and insert "17(a)".

Page 45, line 7, strike "15(a)" and insert "17(a)".

Page 47, after line 9, insert the following:

SEC. 11. VOLUNTARY SEPARATION INCENTIVE PAYMENT.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "employee" means an employee (as defined by section 208 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities;

(B) is serving under an appointment without time limitation;

but does not include any person under subparagraphs (A) through (G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term "covered entity" means—

(A) the Immigration and Naturalization Service;

(B) the Office of Immigration Litigation of the Civil Division;

(C) the Office of the Associate Attorney General for Immigration Affairs;

(D) the Bureau of Immigration Enforcement;

and

(E) the Bureau of Citizenship and Immigration Services;

(3) the term "transfer date" means the date on which the transfer of functions specified under this Act takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before obligating any resources for voluntary separation incentive payments under this section, the Attorney General shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(A) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(B) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the "appropriate committees of Congress" are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General may, to the extent necessary to help carry out the strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(i) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(ii) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(iii) shall be equal to the lesser of—

(A) the amount which would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed $25,000, as determined by the Attorney General;

(iv) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(v) the 3-year period beginning on the date of the enactment of this Act, whichever occurs first;

(vi) shall not be a basis for payment, and shall not be included in the compensation, of any other type of Government benefit; and

(vii) shall not be taken into account in determining the amount of any pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGREEMENTS TO BE MADE FOR THE RETIREMENT FUND.—

(1) In general.—In addition to any payments which it is otherwise required to make, the Department of Justice shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management in the Department of the Treasury the amount required under paragraph (2).

(2) Amount required.—The amount required under this paragraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(A) First method.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additions to the compensation systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) Second method.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

Such computations to be based on separations occurring in the fiscal year involved.—The employees described in this paragraph are those employees who receive a voluntary separation payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subparagraph relates.

(4) Final basic pay defined.—In this subsection, the term "final basic pay", means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH OTHER GOVERNMENT.—In this section, the term "employee" shall include any individual who receives a voluntary separation incentive payment under this section and who, within
5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual’s first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Associate Attorney General for Immigration Affairs (for transfer to the appropriate component of the Department of Justice, if necessary).

1. Effect on Employment Levels—

(b) Computed Result—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

2. Use of Voluntary Separations—A covered entity may re-deploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical occupations.

3. Use of Voluntary Separations—A covered entity may re-deploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical occupations or more critical locations.

SEC. 12. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

(a) In General.—The Attorney General, during a period ending not later than 5 years after the date of enactment of this Act, may conduct a demonstration project for the purpose of determining whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.

(b) Scope.—The demonstration project—

(1) may not cover any employees apart from those employed in or under a covered entity;

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) Procedures.—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity shall be required to provide for the expedience, fair, and independent action to which such section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) thereof).

(d) Use of Voluntary Separations.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 782(a)(1)(B) of title 5, United States Code, there is no judicially reviewable action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in section 22(c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 782(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) Certain Employees.—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code.

Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) Reports.—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstration project conducted under this section, such reports to be submitted after the second and each of the 5 succeeding years of its operation. Upon request, the Attorney General shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) Definitions.—In this section—

(1) the term “Attorney General” means the Attorney General or his designee; and

(2) the term “covered entity” has the meaning given such term in section 11(a)(2).

Page 47, line 10, strike “11” and insert “13.”

Page 48, line 21, strike “15(a)” and insert “17(a)”.

Page 51, strike lines 16 through 20.

Page 51, line 21, strike “12” and insert “14.”

Page 53, line 24, strike “11(b)” and insert “13(b)”.

Page 57, line 1, strike “15(a)” and insert “17(a)”.

Page 57, line 23, strike “15(a)” and insert “17(a)”.

Page 58, line 18, strike “15(a)” and insert “17(a)”.

Page 60, line 15, strike “15(a)” and insert “17(a)”.

Page 60, line 20, strike “13” and insert “15.”

Page 62, line 22, strike “14” and insert “16.”

Page 63, line 7, strike “15” and insert “17.”

Page 64, line 13, strike “16” and insert “18.”

The CHAIRMAN. Pursuant to House Resolution 396, the gentleman from Wisconsin (Mr. SENSENBERN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBERN). Mr. SENSENBERN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment which I am offering today is based on a bipartisan agreement that the Committees on the Judiciary and Government Reform will give the Attorney General and the Associate Attorney General for Immigration Affairs personnel flexibility tools needed to ensure that the restructuring of the INS will be a success.

First, it requires the directors of the two immigration bureaus to design and implement managerial rotation programs so that their managers will have experience in all the major functions of the INS. Failure to do so will make restructuring a success. I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. BALDWIN. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendment.

The CHAIRMAN. Without objection, the gentlewoman from Wisconsin is recognized for 5 minutes.

There was no objection.

Ms. BALDWIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the manager’s amendment. During the committee markup there were several issues that were contentious at the time. Chairman SENSENBERN and Ranking Member CONYERS agreed to work with other Judiciary Committee members and members of the Committee on Government Reform to reach bipartisan agreement. They were successful in reaching an accord on most of these issues.

I urge my colleagues to support this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBERN. Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I suspect that what the gentlewoman was determining here was the amendment having to do with representation of children?

Ms. BALDWIN. No, Mr. GEKAS. No? Then I am in the wrong place at the wrong time, but I will try to regain the podium later.

Mr. SENSENBERN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBERN).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 offered by Ms. BALDWIN.

Ms. BALDWIN. Mr. Chairman, I offer an amendment.
The CHAIRMAN. The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment No. 2 offered by Ms. BALDWIN:

Page 11, line 14, insert before the semicolon a copy of the article.

Ms. BALDWIN. Mr. Chairman, I yield myself such time as I may consume.

My amendment is simple. It would require the Office of Children’s Affairs within the newly created Agency of Immigration Affairs to develop a plan on how to provide unaccompanied alien children with independent legal counsel.

Think back to when you were 8 years old. For many, our biggest concern might have been Friday’s spelling bee. Now imagine that you were forced against your will to go to another country, alone, without knowing why, without knowing for how long, and often without knowing the language. You would definitely have a lot more to worry about. Remarkably, this happens to nearly 50,000 children every year in the United States. These unaccompanied alien children are brought to America from other countries for various reasons.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. BALDWIN. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentlewoman for yielding. I believe she has a very constructive amendment dealing with a major problem. We are happy to accept the amendment.

Mr. GEKAS. Mr. Chairman, will the gentlewoman yield?

Ms. BALDWIN. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I now find myself in the right spot, in the right place, on the right issue at the podium.

Ms. BALDWIN. Welcome.

Mr. GEKAS. I want to substantiate my support for the amendment and to urge that everyone consider the question of unaccompanied young children and the provision of legal assistance in their quest to remain in the United States. I thank the gentlewoman for yielding.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentlewoman yield?

Ms. BALDWIN. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am delighted to hear of the support from my fellow members of the committee on both sides of the aisle.

I wanted to just explain briefly further that when the INS or the Justice Department take unaccompanied alien children into custody, our legal system treats them unlike any citizen and unlike any adult noncitizen. They are provided legal counsel who are charged not only with deporting them but with representing their best interests, which is also mandated by law. It has become increasingly clear that these dueling responsibilities cannot coexist effectively.

The stories are alarming. Unaccompanied alien children are sometimes being left alone to fill out complex legal forms that determine their future, not only here in America but also their future lives in general. Almost one-third of the children will be forced to eat, sleep and live next to juvenile offenders in restrictive juvenile detention centers. Some will languish in these detention centers for years because they lack adequate legal counsel. Some will be moved to other detention centers without being told why and unable to notify relatives in their home countries where they are going.

During this debate, we have heard a lot about why the INS has been unable to do its job, that the American people expect and deserve. I am pleased that today we are spending at least this brief time talking about the children who are affected by the shortcomings of the INS. These conflicts of interest and dueling responsibilities not only frustrate the overall mission of the INS but cause disproportionate harm to these unaccompanied alien children.

This amendment begins to address the serious issue of unaccompanied alien children with independent legal counsel. It would compel the Office of Children’s Affairs to more effectively separate those children being used by this terrible tragedy. I do want to note for the record a 12-year-old being forced to swallow 87 condoms full of heroin and travel to the United States. He was taken into custody and faces charges. In that instance, obviously that child needs counsel, whatever your opinion is about heroin; and there are many cases like that, so this is so very crucial to have.

This amendment is simple but very important. It would compel the Office of Children’s Affairs within the newly created Agency of Immigration Affairs to develop a plan that would provide unaccompanied alien children with independent legal counsel.

The year 2000, the INS took approximately 4,700 alien children who lacked a family member or close friend here in the United States into custody. Many unaccompanied children are smuggled into our country and forced into prostitution. These children are simply used as a tool for others to enter our country and are left behind.

While current laws were once written to protect the child’s best interest, it has become increasingly clear that the law’s original purpose has become as blurrily and as confused as the Immigration and Naturalization Service’s intent and purpose.

While some of these unaccompanied children are deported or reunited with family members, many of them are placed in detention centers for long periods of time without receiving adequate counsel to help them navigate the legal process. An 18 month old infant was placed in her swing chair in Miami to de- tain her. A lawyer, present in the courtroom saw this ludicrous situation and offered to take the case free of charge. A 12 year old was forced to swallow 87 condoms full of heroin and travel to the United States. He was taken into custody and now faces a lot of charges. Here’s a copy of the article.

Everyday kids 10 years old and younger are deported or reunited with family members, many of them are placed in detention centers for long periods of time without receiving adequate counsel to help them navigate the legal process. An 87 month old infant was placed in her swing chair in Miami to detain her. A lawyer, present in the courtroom saw this ludicrous situation and offered to take the case free of charge. A 12 year old was forced to swallow 87 condoms full of heroin and travel to the United States. He was taken into custody and now faces a lot of charges. Here’s a copy of the article.
States and life in general. The forms are not even written in their native language. Many of the kids are forced to reside in detention centers for long periods of time and are transferred to other detention centers without being told why.

Almost one-third of the unaccompanied alien children will be shackled and periodically strip-searched before being sent to detention centers where they will eat, sleep, and live beside juveniles who may have committed serious crimes. They can end up staying in these detention centers from anywhere between 1 month to 2 years before receiving their asylum hearing. Many will be transferred several times to other states and other detention centers without being provided legal advice, let alone be told in their native language where and why they are being moved.

During debate on this amendment in Committee, some Members raised concern about the cost of providing counsel for unaccompanied alien children. While this may be a concern, this amendment would simply give the Agency for Immigration Affairs the responsibility to report to Congress how to handle this. Very little cost would be incurred by developing such a plan.

Furthermore, this amendment would require the Office of Children’s Affairs and the Agency of Immigration Affairs to report to the U.S. Congress how they can learn more about the plan, raise questions, and offer suggestions or criticism. This amendment would simply start the process of addressing a serious problem about how we can give unaccompanied alien children a fair chance in our courtrooms and in our country.

Lastly, Mr. Chairman, the language that was added at the last minute, “consistent with current law” should not close the door on the government coming up with a serious constructive plan for providing legal counsel for unaccompanied minor children. This simply must be done.

OFFICIALS: BOY SWALLows HEROIN

CONDOms

NEW YORK (AP) — A 12-year-old boy from Nigeria swallowed 87 condoms filled with heroin last month before meeting whoever had promised him $1,900 to act as a contraband courier, authorities said.

He flew to New York and became sick there, with authorities saying 85 of the 87 condoms were swallowed. Umegbolu, was listed in stable condition at New York Hospital Medical Center of Queens. Officials said 85 of the 87 condoms were filled with heroin.

NEW YORK (AP) — Officials said 87 condoms filled with heroin were swallowed by a 12-year-old boy from Nigeria last month before meeting whoever had promised him $1,900 to act as a contraband courier, authorities said.

He flew to New York and became sick there, with authorities saying 85 of the 87 condoms were swallowed. Umegbolu, was listed in stable condition at New York Hospital Medical Center of Queens. Officials said 85 of the 87 condoms were filled with heroin.

While Congress has a responsibility to protect the citizens of the United States from enemy threats, I do not believe an unaccompanied child under the age of 10, for example, has the intention of undermining our way of life, even though the circumstances of his or her arrival may conflict with our laws. Some of these unaccompanied children find themselves in America through smuggling rings for slave labor or prostitution. The perpetrators are the adults who abandon them and break our laws, not the children themselves.

For that reason, I strongly support finding a means of handling these situations when they sadly arise. This amendment does not overburden the government with additional cost, though it does require the development of a plan by the Office of Children’s Affairs created by the underlying bill for dealing with such eventualities. This is the least we can do for the most vulnerable of exploited immigrant populations. Currently, the INS holds approximately 1,800 unaccompanied alien children in custody every year. Many of these children have valid claims to refugee and asylum status; but without adequate legal counsel, they are not afforded the opportunity to make such claims.

I wonder, Mr. Chairman, just how many of these unaccompanied children have been shuffled through the process and have not gotten the procedural consideration they are due in this great country. Planning for these cases and the interests of the children should be one of the foremost priorities to be dealt with by the new Office of Children’s Affairs. It is for this reason that I ask my colleagues to support this amendment.

The CHAIRMAN. The gentleman from Wisconsin has 1 minute remaining.

Ms. BALDWIN. Mr. Chairman, I yield that 1 minute to the gentleman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I appreciate very much the effort that is being made to make sure that children are represented and that their interests are brought to the forefront.

I would note that there is ambiguity in the drafting of the amendment because it would freeze the current law that prohibits the appointment of counsel. However, since this is a plan that is subject to further review when it comes back to the Congress, I would note that the Congress will have an opportunity to actually deal with the appointment of counsel for children as to their dependency status at least when this plan comes back. I am hopeful that we will actually do that once this plan is put into place.

First, the 5-year-old is a child before they are an immigrant. We ought to treat the child as any other child would be treated. And second, I am very much appreciative of the effort that the gentleman from Wisconsin (Ms. BALDWIN) has put into this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Ms. BALDWIN).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 offered in H-1075.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas:

Page 59, after line 22, insert the following:

(3) REPORT ON FRRS.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

The CHAIRMAN. Pursuant to House Resolution 398, the Chair recognizes Mr. Jackson of Texas (Ms. JACKSON-LEE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me acknowledge that one of the crucial points of change in this legislation is the establishment of a bureau of services and enforcement, one of the major concerns in this legislation and as well in the fault of the INS.
Might I just take a moment, because I believe when we talk about abolishing an agency, we make a global statement about all of those who are working there or have worked there. Let me get on record by acknowledging the many hard-working constituents that I have that work for the INS and around the Nation. Allow me to acknowledge the many effective and faithful district directors and center directors who have worked diligently with our respective staffs to ensure that some of the snafus that occur can be corrected. But at the same time allow me to acknowledge incidences of lost fingerprints and lost paperwork, incidences where people in the business community are seeking to generate opportunities for those who come to be productive in this country and generate business, are sometimes in a very complicated and conflicted position of not being able to pursue on behalf of their client the process of accessing legalization. Part of that, even though we know that there has been an attempt to increase the funding of the INS, has been the money stream.

In this bill, we rely upon the fee structure for funding the services. I want to say to all of the advocates and providers of services before the INS, the counsel that represent the particular clients trying to seek legalization, and those who work in that process to give fair hearing to those who try to proceed in the process. Allow me to suggest that we can make it better if we can follow the money trail.

This study will give us the insight as to whether the fees generated by the particular services that are granted by the INS are enough or effectively utilized to ensure that we do not have the problems that we are facing today.

Later on today, we will have additional amendments on statistics; we will have additional amendments.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe this is a constructive amendment because it can give us some very good data on how reliant the service end of the INS is on fees that it collects from immigrants. I would hope that the committee would speedily adopt this amendment so that we can go on with the consideration of this bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the chairman of the committee for his support of this.

'Complete my explanation, let me say that this amendment will help us in the structure of the fee process that we have, being able to monitor whether or not that is sufficient money.

Again, this goes to the point that rather than having a cosmetic approach to this legislation, we are truly changing the infrastructure. We are acknowledging that fees are utilized to fund the service section, but we are also acknowledging by this amendment that we are carefully monitoring whether or not those will be sufficient funds and whether or not an authorization of a money stream will be necessary, which will then be a request to the Congress and appropriations in their wisdom to make the right decision.

Mr. Chairman, I ask my colleagues to support this amendment, and I thank the chairman for his support.

Mr. Chairman, this amendment answers the fear that the Bureau of Immigration Services could wind up as a "starved" bureau. I am concerned that the division of the INS into separate and independent agencies could mean that the enforcement bureau will get all of the appropriated funds, and that the Service bureau will be forced to survive with only funds derived from fees. This could result in an even greater backlog in immigration benefit adjudication than currently exists.

This is a very good amendment as it mandates that the GAO conduct a study to ensure that the Bureau of Immigration Services is not left standing on its own solely relying on fees. I urge passage of this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House report 107-419.

AMENDMENT NO. 4 OFFERED BY MS. ROYBAL-ALLARD

Ms. ROYBAL-ALLARD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. ROYBAL-ALLARD:

Page 38, line 16, insert the following before the period: ", including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such offices and bureaus, and the reasons for such denials, disaggregated by category of denial and application or petition type”.

The CHAIRMAN. Pursuant to House Resolution 396, the gentlewoman from California (Ms. ROYBAL-ALLARD) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Chairman, I yield myself such time as I may consume.

I would like to begin by thanking the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, and the gentlewoman from Michigan (Mr. CONYERS), the ranking member, for all of their hard work on this INS restructuring bill. I also want to thank them for support of my amendment, which simply requires the newly created Office of Immigration Statistics to maintain statistics on denials of applications and petitions and the reasons for those denials.

This information will help Members of Congress and other interested parties better understand the causes of the vast differences and denial rates for applications and petitions throughout the country.

For example, in the first quarter of 1999, the denial rates for INS districts ranged from 7 percent in Portland, Maine to 67 percent in Miami, Florida. Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. ROYBAL-ALLARD. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to support the amendment. I think she has a very constructive amendment in giving both the INS and the Congress statistics relative to denials.

What we want to see in this restructured INS is a uniform application of the law, which means if a case applies at one INS office or restructured INS office, one should not get a different result if one applies at another office with the same set of facts and the same background. I think there is a great deal of suspicion that there is different strokes for different folks, depending upon what office one goes to, or even within an office, what immigration inspector ends up doing the adjudication. Having these statistics I think will help both the restructured agency in having uniform application of the law, as well as giving the Congress the data that is necessary to determine whether any further changes in the law are necessary.

So I am pleased to support the amendment, and I hope that it is speedily adopted.

Ms. ROYBAL-ALLARD. Mr. Chairman, reclaiming my time, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, for his words and also for his support of this amendment. I too believe that this is good policy that will help instill confidence in the system by giving credibility to this important agency not only to the eyes of Congress but, more importantly, to the American people.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentlewoman from California, and I applaud her for her leadership on this legislation.

I will simply ask that we realize what the gentlewoman is answering, because she and the newly created Office of Immigration Statistics to maintain statistics on denials of application petitions and the reasons for
these denials. One of the issues that we always hear is the frustration of those who are trying to access legalization. This will be a clear instruction for us to guide the INS, to answer the question of consistency. It will also be helpful to the new general counsel who will be able to determine whether or not we have consistent policies vertically up and down the line of authority.

So I thank the gentlewoman, and I support her amendment.

Mr. Chairman, I rise in support of the Roybal-Allard Amendment to H.R. 3231. During the House Judiciary Committee mark-up we added the new Office of Immigration Statistics, which will be headed by a Director who is appointed by the Attorney General and reports to the Director of Justice statistics. The Director will maintain all immigration statistical information to the Associate Attorney General of Immigration Affairs. The Director will establish standards of reliability and validity for immigration statistics collected by the Office of the Associate Attorney General.

Ms. ROYBAL-ALLARD’s amendment brings some needed clarity to this language.

The amendment states that the newly created Office of Immigration Statistics must maintain statistics on denials of applications and petitions, and the reasons for those denials. It is too often Mr. Chairman that many members from many districts do not know why the applications that their constituents are toiling long days and nights working on have been denied. The amendment is needed to help Members of Congress and other interested parties gain a better understanding of the very high denials rates for applications and petitions throughout the country.

The Roybal-Allard amendment is the step in the direction of accountability, it is a step in the direction for fairness, it is a step in the direction for accuracy, and most importantly it is a step in the direction for accuracy. Let’s pass the Roybal-Allard amendment.

Ms. ROYBAL-ALLARD. Mr. Chairman, I thank the gentlewoman from Texas for her comments, and I want to acknowledge her outstanding work on this bill and in the area of immigration in general.

Mr. Chairman, I yield back the balance of my time.

THE CHAIRMAN. If no Member rises in opposition to the amendment, the question is on the amendment offered by the gentleman from California (Ms. ROYBAL-ALLARD). The amendment was agreed to.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of the gentlelady from New York (Ms. VELAZQUEZ) and a Member opposed each will control 10 minutes.

Ms. VELAZQUEZ. Mr. Chairman, H.R. 3231 holds tremendous potential to improve an agency that has long been a source of frustration for Congress, consumers, and agency employees alike.

Mr. SENSENBRINK. Mr. Chairman, will the gentlewoman yield?

Ms. VELAZQUEZ. I yield to the gentleman from Wisconsin.

Mr. SENSENBRINK. Mr. Chairman, I believe this amendment is also a very constructive amendment. Before we figured out what to do with the 5 million case backlog we already have, and I think having innovative pilot programs, shuffling paperwork, seeing what works and seeing what does not but, more importantly, getting us automated and having a lot of the paperwork being changed from paper to electronic paper is going to mean that these adjudications take place in a timely manner and we will not have to have people getting fingerprinted 4 times before they can get a green card.

So I would hope that this amendment would be speedily adopted.

Mr. SENSENBRINK. Mr. Chairman, reining my time, I thank the gentleman.

The bill before us takes bold action regarding the structure of the INS. We should also seize this opportunity to take bold action with regard to the application backlog as well, and that is what my amendment proposes to do.

Specifically, my amendment will enable the Associate Attorney General for Immigration Affairs to explore new and innovative ways of addressing the backlog by authorizing the Director of the Bureau of Citizenship and Immigration Services to implement pilot programs in areas with large backlogs to efficiently and effectively dispense the backlog and prevent the backlog of future applications. It will encourage initiatives such as increasing or transferring personnel to areas with ongoing backlog problems, streamlining regulations and paperwork, and providing incentives for efficient and high-quality work.

This amendment recognizes that there is not a one-size-fits-all approach to eliminating existing backlog and, therefore, encourages flexibility at the local level by enabling district offices to utilize new strategies to deal with all problems.

Finally, the amendment establishes the goal of eliminating the current backlog not later than one year after the enactment of the act. My amendment will allow the new Associate Attorney General for Immigration Affairs to think and pursue new solutions to old problems. It will enable the newly-formed Bureau of Citizenship and Immigration Services to get to a point where all immigration applications are processed quickly and expeditiously, and it represents an important step in the process of turning immigration into a policy and process of which we can all, Congress, consumers and agency employees alike support.

Mr. Chairman, I urge my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

THE CHAIRMAN. Does any Member rise in opposition to the amendment? If not, the gentlewoman is invited to exhaunt her time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, in support of the gentlelady from New York’s amendment requires that the INS eliminate its enormous immigration application processing backlogs and requires that all backlogs be eliminated within one year. It also requires that the INS prevent any backlog efficiencies where problems are known to exist. The INS has been notorious in the past for being long overdue in issuing backlog reports for Congress to access. This has resulted in an INS backlog of 4.9 million immigration applications. Efforts in the past to reduce the backlog were unsuccessful. The Immigration and Naturalization Service Act of 2000 authorized appropriations to reduce backlogs but the appropriate expenditures were predicated on the INS submitting a backlog report to Congress. 4.9 million applications later, we’re still waiting.

As it stands, H.R. 3231 doesn’t go far enough. It would eliminate the wait for a backlog report before using funds to start reducing the backlogs but it would not place a requirement on the INS to eliminate the backlog right away. And that’s what we need if we are serious about this problem. 4.9 million people and their families are behind those unprocessed immigration applications. Many are hanging in “status limbo” waiting for a decision on which way to go or...
what to do next. And if there are security concerns, we would not know because these applications are not reviewed or examined.

This is a good amendment, a practical amendment and a much needed amendment for the reformed and restructured INS and for the people trying come in and make good in America.

Ms. VELÁZQUEZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. Velázquez).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 6 printed in House report 107–419.

AMENDMENT NO. 6 OFFERED BY MR. ISSA
Mr. ISSA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. Issa: Page 45, after line 7, insert the following (and redesignate provisions accordingly):

(b) ADDITIONAL PERSONNEL MATTERS.—

(1) E LIMINATING RESTRICTIONS ON CERTAIN PERSONNEL MATTERS. —

(a) In general. —

All provisions in the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement are positions in the excepted service, as defined by section 2305 of title 5, United States Code.

(b) ELIMINATING RESTRICTIONS ON CERTAIN DISCIPLINARY AND OTHER ADVERSE ACTIONS TAKEN AGAINST EMPLOYEES.—Section 7511(b)(6) of title 5, United States Code, is amended by inserting "the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement," after "the Federal Bureau of Investigation."

The CHAIRMAN. Pursuant to House Resolution 396, the gentleman from California (Mr. Issa) and a Member opposed each will control 10 minutes.

Mr. ISSA. Mr. Chairman, I yield myself such time as I may consume.

The INS has an essential role in ensuring the national security of the United States and is falling in that role. Reforming the INS without addressing the personnel reform issue is simply an error.

This amendment extends greater management authority to deal with problem employees, which will lead to a higher level of service and a greater expectation.

The type of personnel flexibility is exactly what Commissioner Ziegler has asked for when testifying before Congress earlier this year. I believe this amendment is offered for true INS reform.

I do not ask for much in the way of reform; I only ask for the same standard, the same standard as today we expect from the FBI, the CIA, and other agencies.

In fact, nearly 20 percent of all agencies have the same rules I am asking for here today, and disproportionately, these rules are used in those organizations in which public trust and safety is most vital.

Without this amendment, I do not believe true reform can take place, because we would not be addressing the entire organization from the structure of the organization to the personnel within.

Mr. Chairman, without this amendment, we in fact would not have the ability to terminate people, even if once again the gross failures that led to the unfortunate loss of life in the tragedy in the Twin Towers in New York occurred. We need the authority to get rid of, not promote or transfer, people who in fact cannot or will not do their job.

I rise in support of my amendment to H.R. 3231, "The Barbara Jordan Immigration Reform and Accountability Act." This amendment requires that all employees at the new Office of the Associate Attorney General for Immigration Affairs and the two new expanded service (Office of Citizenship and the Immigration Service, and the Bureau of Immigration Enforcement) employees. Simply stated, this bill will extend greater management authority to deal with problem employees, which will lead to a higher level of service we have a right to expect.

This amendment is the type of personnel reform Commissioner Ziglar asked for when he testified before Congress this year. I believe this amendment will offer "true" INS reform, by making every INS employee a part of the excepted service, thereby assuring accountability from top of the agency to the lowest level employee.

Earlier today, I spoke of Mohammed Atta and his multiple entries into the United States prior to his attack on our nation and INS's role. The employees that were responsible for his entry were not dismissed and still remain within the INS.

With regards to Mohammed Atta, the INS: Failed to act on his training visa after Atta abandoned the application by leaving the country; Failed to recognize that Atta had abandoned his application even when his departure was established by his attempt to reenter the United States on January 10, 2001; Disregarded Atta’s apparent intent to continue his flight training without a proper visa in January and admitted him as a visitor; and Ignored evidence that Atta first entered the United States intending to commence flight training immediately without the proper visa.

If this amendment is adopted, we will no longer protect incompetence that allowed Mohammed Atta into the United States. This amendment is a vote for greater accountability of the INS and for national security. Let’s not forget that there are 3,000 dead . . . and one no one is held accountable.

I urge all my colleagues to vote in favor of this legislation.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Ms. JACKSON-LEE of Texas. Mr. Chairman.

The CHAIRMAN. The gentlewoman from Texas (Ms. Jackson-Lee) is recognized for 10 minutes.

Ms. JACKSON-LEE. Mr. Chairman of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, obviously we have worked together on the Committee on the Judiciary, and we respect the diversity of opinion and thought that would generate serious efforts to improve this agency.

But I am forced to raise strong opposition to the Issa amendment because, by making it simple for managers to fire employees and dismiss them outside of the civil service process, the Issa amendment would circumvent many of the positive reforms agreed to in this legislation.

The amendment is strongly opposed by the American Federation of Government Employees and the AFL-CIO. Excepting INS employees from the civil service would return the agency back to the ages when we again address the questions of cronyism and patronage, which ran rampant.

This is not to say that we do not want an improved employee, a professional employee, and an opportunity for the administration to be able to put their positive handprint on the new changes that will come about.

Not too long ago, the only way to get a government job was if you knew someone in the government or someone owed you a favor. As a result, key policy and administrative decisions will be based on how it has affected your patron, rather than on whether it was good policy. The civil service program was carefully crafted to eliminate this egregious behavior.

At the same time, I think if we look at the manager's amendment, we will find that we have implemented processes in there to ensure, again, the assessment of an employee's performance and to improve that performance.

A couple of weeks ago, we had a hearing on the most ironic and, I would say, the most delusional aspect on the tragedy of September 11. That was the hearing on Mohammed Atta, deceased, and another one of the terrorists who received what we call late student visas.

If we look at this legislation, we will know that by the amendment of the gentleman from New York (Mr. Weiner), we now have a student track-

ing office, and therefore, to cite the heinousness of the act of September 11, and build it upon the idea of needing this particular amendment is not accurate.

So I am rising to oppose this amendment, and would ask my colleagues to do so.

Mr. Chairman, I rise in strong opposition to the Issa amendment. By making it simple for managers to hire employees and summarily dismiss them outside of the civil service process, the Issa amendment would circumvent many of the positive reforms agreed to in this legislation. The amendment is strongly opposed by the American Federation of Government Employees and the AFL-CIO.

Excepting INS employees from the civil service would return the agency back to the

Dear Representative: On behalf of the American Federation of Government Employees, I strongly urge you to oppose an amendment that will be offered by Representative Darrell Issa (R-CA) to H.R. 3231, the Immigration Reform and Accountability Act of 2002. In our view, this amendment will noticeably decrease the effectiveness of the newly created immigration and naturalization service. However, these agencies are already at an unprecedented level due to low morale and the stripping of civil service protections for all I&NS employees for any offense ostensibly committed by any employee. This includes collective bargaining agreements are superseded and the notice and hearing procedures in the civil service laws are also overruled. Among other things, this would allow whistleblowers to be fired on the mere allegation of wrongdoing. For example, the two Detroit Border Patrol agents who recently expressed their views to Congress and the news media on the lack of enhanced security on the northern border would very likely have never told their stories had the Issa amendment been in effect. Under current law, the agency would have been able to avail themselves of basic procedural protections in a timely and effective manner. The amendment gives the agency the authority to circumvent the civil service system for hiring purposes. Essentially it would strongly discourage employee “whistleblowers” from providing essential information to Congress and even the news media for fear of losing their jobs.

As an example, the demonstration project that has already been approved by the committee, was drafted with bipartisan cooperation by the chairman and ranking members of the Committee on the Judiciary and the Committee on Government Reform. This amendment authorizes the Attorney General to create a demonstration project to test a new employee discipline model. The demonstration project will provide the Attorney General with much flexibility in crafting the appropriate and fair method in disciplining a wide range of employees handling immigration functions. The demonstration project that has already been approved by the committee focuses on problem managers and emphasizes alternative methods of dispute resolution. It calls for an expedient, fair, and independent review of disciplinary actions, and it protects the settled expectations of collective bargaining agreements while permitting union members to opt out of the project.

We should give the Attorney General the chance to utilize the demonstration project. If it becomes apparent that the project is not working as expected, and that placing immigration-related employees in the excepted service would be beneficial, I would be the first to support legislation doing so, but now is not the time to do it.

The gentleman from Wisconsin (Mr. Sensenbrenner), and ask unanimous consent that he be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Mr. SENSENBERNEN. Mr. Chairman, I thank the gentlewoman for yielding the time to me, and I yield myself such time as I may consume.

Mr. Chairman, the manager’s amendment, which already has been accepted by the committee, was drafted with bipartisan cooperation by the chairman and ranking members of the Committee on the Judiciary and the Committee on Government Reform.

This amendment authorizes the Attorney General to create a demonstration project to test a new employee discipline model. The demonstration project will provide the Attorney General with much flexibility in crafting the appropriate and fair method in disciplining a wide range of employees handling immigration functions.

The demonstration project that has already been approved by the committee focuses on problem managers and emphasizes alternative methods of dispute resolution. It calls for an expeditious, fair, and independent review of disciplinary actions, and it protects the settled expectations of collective bargaining agreements while permitting union members to opt out of the project.

We should give the Attorney General the chance to utilize the demonstration project. If it becomes apparent that the project is not working as expected, and that placing immigration-related employees in the excepted service would be beneficial, I would be the first to support legislation doing so, but now is not the time to do it.

The gentleman from California (Mr. Issa) is absolutely correct in emphasizing the importance of having employees of the FBI, the CIA, and the excepted service. However, these agencies
Mr. CANNON. Mr. Chairman, I thank the gentleman from California for yielding time to me.

Mr. Chairman, I would like to start by expressing my appreciation to the chairman of the committee, the gentleman from Wisconsin (Chairman SENSENBRENNER), for the depth of his review on this matter and his concern, and the information he has gathered. However, I rise in support of this amendment to give personnel flexibility to the new immigration bureaus authorized by the gentleman from California.

Restructuring the INS, which we have come to call the “ignoring national security,” as opposed to whatever that actually stands for, is important; and changing the organizational structure is terrifically important. The bill of the gentleman from Wisconsin (Chairman SENSENBRENNER) today does a great deal to move that forward.

The issue here is in part a matter of organization, and if we can get a start up here on the budget, Members will see that over the last 10 years, if we had 1992 here, we would see that the budget of the INS has increased almost fivefold over 10 years; and at the same time, the number of meetings that are backlogged, from about 1 million to about 5 million.

Something more fundamental has to happen with this agency. I believe the way to make that happen is to restore the responsibility of people who are working in the INS.

I have worked very hard with the gentleman from Wisconsin (Chairman SENSENBRENNER) and many others to include language in the manager's amendment that will provide greater removal authority and personnel flexibility to the new head of the agency for supervisors and managers. The Issa amendment will go farther in making sure that we have those in charge of immigration and our national security as accountable as the average employee at every American company.

I urge my colleagues to support the Issa amendment and give the manager, the people who are going to run it, and the President and his designees, the authority to remove people who are obstructionist and who get in the way of the changes that we need as Americans to see in that agency.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), and I ask unanimous consent that he may be entitled to yield part of that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that we have 1 minute each on both sides.

The CHAIRMAN. The request of the gentleman from Wisconsin is made in order.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent that we have 1 minute each on both sides.

Mr. Chairman, there is no objection.

Mr. CONYERS. Mr. Chairman, I think my colleagues and I agree with the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, for yielding time to me, and I yield myself such time as I may consume.
The CHAIRMAN. Each side’s time has been enlarged by 2 minutes. The gentleman from Michigan (Mr. CONYERS) has 2 minutes remaining, and the gentleman from California (Mr. ISSA) now has 8 minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield 45 seconds to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me just say I think the intention of the gentleman from California (Mr. ISSA) here is designed to give maximum flexibility to INS management, and I applaud that; but I think he is going about it the wrong way.

First of all, the problem is in management at this point over in INS, and this amendment as I read it virtually wipes out the SES because of the safeguard that it takes away. If you are trying to recruit and retain the best in Federal employees, why are you going to take away the right to independent review, the right of appeal, and make them at the mercy of employees at will? No one is going to leave a job in the private sector or move laterally from another agency if they are going to be subject to those restrictions.

If we have a problem, let us look at the overall civil service system in that context instead of putting pieces into different agencies. It is going to become unmanageable in my judgment. So I urge my colleagues to vote against this particular amendment.

Mr. GEGAS. Mr. Chairman, I yield 45 seconds to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me the 45 seconds.

Mr. Chairman, I would join in the remarks made by the chairman, my friend from Virginia (Mr. TOM DAVIS), the gentleman from the District of Columbia (Ms. Norton), and I am sure the gentleman from Maryland (Mrs. MORELLA).

The fact of the matter is that this will undermine two very important things. First of all, I strongly believe that employees ought to have the right to organize and to have a voice to which they can address management.

Secondly, the gentleman from Virginia (Mr. TOM DAVIS) is absolutely correct. The other provisions of the Issa amendments will in fact in my opinion substantially undermine the opportunity to recruit the kind of people you need to affect what has really been the problem and that is management. Not labor, but management, in this agency. And, therefore, I would hope that we would defeat and reject this amendment.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment continues Republican attempts to erode the rights of Federal employees.

In his legislative action after taking office, President Bush repealed a regulation designed to protect millions of American workers from ergonomic injuries.

On January 7th of this year the President issued an executive order denying union representation for 1,000 employees at the Department of Justice.

The President cited national security concerns for this order, even though some of those employees have partaken in union status for over 20 years and others covered by that order held clerical and administrative positions.

This administration is also considering what rights Federal baggage screeners will have. Let there be no administration that denies these employees the right to join a labor union and collectively bargain, it will do so for purely political reasons that have little or nothing to do with national security.

Today, we consider an amendment that will eliminate existing procedural protections for all INS employees for any offense allegedly committed by an employee. There simply is no justification for denying them this basic democratic freedom.

INS employees would no longer have the basic right of due process protection and the process of independent review and appeal would be eliminated.

This amendment would strongly discourage employee "whistleblowers" from providing essential information to Congress and even the Congress for fear of losing their jobs.

The large majority of INS employees are hard working Federal employees that we should be proud of because they are on the front lines protecting our homeland. Let’s not punish the masses for the mistakes of a few.

Protect the rights of federal employees and vote "no" on this.

Mr. CONYERS. Mr. Chairman, I yield 45 seconds to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding me time. I really appreciate it.

I want to abbreviate a statement to say that actually this Issa amendment would really eliminate all employee protections in disciplinary cases, and it would worsen an already severe attrition problem. Collectively, we deny Congress critical information on a wide range of immigration issues because current employee protections would be removed. Consequently, employee whistleblowers would be discouraged from disclosing information for fear of losing their jobs.

In addition, allowing all positions within the new agency to be considered "excepted service" positions would lead to the kind of political patronage and cronyism the civil service was created to prevent.

The problems at the INS are not the result of inadequate disciplinary procedures or an inability to procure outside expertise but this amendment sends that message and so I urge a "no" vote.

Mr. CONYERS. Mr. Chairman, all I want to say to my friend, the gentleman from California (Mr. Issa), is that I wish he had more management experience.

The CHAIRMAN. The time in opposition to the amendment has expired.

The gentleman from California (Mr. ISSA) has 8 minutes remaining in support of the amendment.

Mr. ISSA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California asked and was given permission to revise and extend his remarks.

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for yielding me time.

I rise in support of this measure and congratulate the Members who are involved in it.

Mr. Chairman, as an original co-sponsor of H.R. 3231, I would like to congratulate Mr. SENSENBRENNER and Mr. GEKAS for bringing this vital matter to the floor and setting us on a course to finally provide a meaningful reform of our nation’s immigration system.

For too long, Mr. Chairman, we have watched as Immigration and Naturalization Service officials have vowed their commitment to reform in testimony, but provided little evidence that they are either willing or capable to see this through in practice. Congress demanded in 1986 that illegal immigration be stopped and very recently has had as many as 8 million people living in our country who entered without following our immigration laws, and who now have no legal status. At the same time, the INS has chronically run backlogs of a year or more in processing the requests of legal immigrants to become citizens or simply renew their permanent resident documents.

In California, we have dealt with the dysfunction of this agency for decades. Most California congressional offices must devote a full-time staff member just to deal with immigration issues—and much of their time is spent fighting with the INS bureaucracy over a blunder made by INS officials themselves. Thousands of INS employees are hard working and dedicated to service, but the system in which they operate was designed to discourage flexibility in its hiring process, it actually would eliminate all employees protections in disciplinary cases and worsen an already severe attrition problem within the ranks of the INS. According to INS statistics, the FY 2002 loss rate for Border patrol agents is 14% and could rise to 20 percent by the end of the year.

The Issa amendment would also effectively deny Congress critical information on a wide range of immigration issues because current employee protections would be removed. Consequently, employee whistleblowers would be discouraged from disclosing information for fear of losing their jobs.

In addition, allowing all positions within the new agency to be considered "excepted service" positions would lead to the kind of political patronage and cronyism the civil service was created to prevent.

The problems at the INS are not the result of inadequate disciplinary procedures or an inability to procure outside expertise but this amendment sends that message and so I urge a "no" vote.
We joined the nation in anger and disgust when all of these traits were revealed to the public with the issuance of visas to the September 11 terrorists six months after they had taken thousands of American lives. But we were not terribly surprised, I am sorry to say. It was not the first time we had seen this agency fail in its responsibility, but I sincerely hope it will prove to be the weight that tips the scales in favor of reform.

This legislation places a spotlight of accountability on both the enforcement and immigration services branches of the new agency. It should open the doors to those within the agency who display the leadership qualities to provide true reform, and weed out those who will not or cannot move the agency forward. Its passage will show the INS—and the nation—that Congress will insist on that reform. The Congress—and the nation—will no longer be satisfied with half-measures and band-aid fixes.

Mr. ISSA. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this is a good bill. It will improve things over in our Immigration and Naturalization Service. I believe we are doing the right thing by splitting the agency up. However, we cannot deceive ourselves into thinking that nothing is wrong over there and that we can only point to a few people and say that they are the problem.

We need to give those in management position and others the flexibility to deal with personnel, like they have at the CIA, like they have at the FBI, like they have at other agencies. We have big problems there that simply saying “business as usual” will not solve.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, is there any evidence that the rights which would be compromised by this amendment were, in fact, impediments to management in effecting corrections of the problems that you correctly observe exist?

Mr. FLAKE. We cannot know. We simply do not know. We do not know who is here, who is there, how many are here illegally. There is so much we do not know at the INS.

Mr. HOYER. I am talking about the employees’ organizational rights and protection that would be compromised by this amendment, just as the Issa amendment is, undermined by the Issa amendment. Is there any evidence that they contributed in any way to the problems?

Mr. FLAKE. Reclaiming my time, we are simply not here to give them the flexibility that is enjoyed by other agencies. We believe that is needed. I commend the gentleman for doing this.

I was pleased to support the manager’s amendment. There are other things wrong with the INS. One of which is that the littleлось have been created over the years and managers have served sometimes in one position for 20 years. Whereas, in other agencies like the FBI, like the armed services, they are forced to move around to know what other parts of the agencies do. And that way little field offices are not created as easily. I am pleased that that language was included in the manager’s amendments, but we need to do much more.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Mr. Chairman, the gentleman is very kind.

I just want to remind the gentleman, it is his amendment, but it not only affects managers, it affects every employee in the INS, everyone. Mr. Chairman, I support this amendment. According to the chairman, this amendment was made simple and understandable so in fact to be brought to the House floor. I asked that this kind of amendment be incorporated in the management amendment, but it was a deal breaker. It was a deal breaker because people did not want to go far enough in INS reform. It is very easy for this body to come back and trim around the edges, but they would like and define those people who should be granted the ability to make this mistake and not be held accountable and not be fired. That would be the right of this body and the right of this other body and the right of the President.

I am here today saying that we must today end the possibility that the people who allowed this to happen because of their negligence or because of an absence of their willingness to look at the INS agent’s own notes that said that Atta had admitted that for 5 of the 6 months he was a visitor he was unlawfully getting flight training; and the FBI has helped me. I have found out that he was only learning to fly, not to take off and land.

Mr. Chairman, I am from San Diego County; and I have met with the Border Patrol agents. I have met with them in Texas. I have met with them in California. And I will tell you something, they are quick to tell you the problems, they are quick to tell you the problems, but so is the FBI. And the FBI has helped me. I understand why we need this reform. The Border Patrol has helped me, and they have not helped me because they have exemption from whistle blowing. They have helped me because they care a great deal about good management reform they need so they can be proud of the jobs they do. I would certainly ask my Members to think twice about saying this is an imperfect amendment when, in fact, only with this amendment can we have the ability to terminate the people who should have been there to protect us and we not.

Ms. McCARTHY of Missouri. Mr. Chairman, I rise in strong opposition to the Issa amendment offered to H.R. 3231, the Immigration Reform and Accountability Act. The amendment would: (1) eviscerate existing civil service laws that protect against hiring on the basis of patronage and cronyism; and (2) eliminate all employment procedural protections in disciplinary proceedings, including those in collective bargaining agreements. Among other things, this would allow whistle-blowers to be fired as a result of their actions. This amendment compromises basic federal employment rights, limits the right of Congress to gain access to critical information about agency activities, and dramatically increase the already severe attrition rate within the Immigration and Naturalization Service (INS). By making it simple for managers to hire employees summarily and undermine the civil service system for hiring purposes. It would bring us back to a federal hiring system based on patronage and cronyism, which this civil service system was created to prevent. While the intent of this amendment may be to provide the agency the ability to seek outside professionals to provide expertise in specific areas
I urge a "no" vote on the Issa amendment. Mr. ISSA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ISSA).

Mr. HOYER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6, rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. ISSA) will be postponed. The yeas of no quorum are considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 107-419.

Amendment No. 7 offered by Ms. LOFGREN.

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Ms. LOFGREN: Page 62, after line 21, insert the following:

SEC. 13A. PROCUREMENTS OF INFORMATION TECHNOLOGY TO IMPROVE PERFORMANCE OR EFFICIENCY.

(a) In General.—The authorities provided in this section apply to any procurement of information technology products or services, including the management of information technology improvement programs, necessary to improve the performance or efficiency of the Immigration and Naturalization Service of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement. Such procurements of information technology products or services may include those necessary to improve the ability of the agencies and the Comptroller General, in consultation with the Director of the Office of Immigration Enforcement, to share information with other public agencies and law enforcement authorities authorized to receive such information.

(b) Simplified Procedures for the Procurement of Information Technology.—

(1) DETERMINATION OF PRODUCTS AND SERVICES AS COMMERCIAL ITEMS.—Any product or service procured by the Attorney General as described in subsection (a) may be treated as a commercial item (as defined in section 4(12) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253d)) and shall be subject to the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(2) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(A) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 303(g)) and section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) shall not apply to purchases of products or services deemed to be a commercial item under paragraph (1).

(B) GUIDANCE.—The Attorney General and the Administrator of Federal Procurement Policy shall jointly issue guidance and procedures for the use of simplified acquisition procedures for products or services in excess of $5,000,000 under the authority of this section.
H1662

Mr. Chairman, this amendment would provide for simplified procedures for acquisition of information-technology solutions to help reform the INS. The simplified acquisition procedures were initially created in the Federal Acquisition Streamlining Act of 1994 and augmented under the Klinger-Cohen Act of 1996.

These procedures will speed up the procurement process to allow agencies to acquire goods and services they need in a more efficient manner. There are shorter waiting periods after the notices are issued, more flexibility in how requests for proposals are put together, fewer potential bidders have to be notified, it is not required that competition is still required and bids must be solicited from at least three bidders.

Under current law, agencies may use simplified acquisition procedures to acquire goods and services worth up to $100,000 and to acquire commercial items up to $5 million. This amendment further adds to the flexibility for the acquisition of technology as well as the management of technology.

It is important to note that within the amendment there is a non-discrimination provision against small businesses so that we can continue to have small business play a vigorous role in providing IT.

I oppose this amendment. The INS has had a difficulty for a long time in developing and fielding information systems to support its programs operation, but this is not the reason to deviate from the rules that this Congress has put in place to open full and open competition in the government procurement process.

Given the difficulties the INS has had in effectively managing and using information technology in the past, the Associate Attorney General for Immigration Affairs is required to follow all pertinent procurement requirements until such time as he has shown the capability to manage the plan and ongoing information technology investments effectively.

Only in the assurance that the hundreds of millions of dollars that will be spent on IT by the new INS and its successors will be spent wisely. That is why we have procurement regulations. They are designed to ensure that the government, and thus the taxpayers, get the best possible product, while the taxpayer is charged the lowest possible price. They are designed to avoid the potential for contracts being steered to friends or relatives.

We do not need sole-source bidding, and this is what the LoFgren amendment opens the door for, but open and fair competition in the awarding of contracts.

Mr. Chairman, Members should know that the administration strongly opposes this amendment because of the detrimental impact on policies and procedures on procurement. I am also informed that both the Republican and Democratic leadership of the Committee, if this amendment is passed, that has got principal jurisdiction over this topic, has got significant concerns about the LoFgren amendment.

I will be happy to continue working on this issue before conference on this bill with the drafters of the amendment. Committees on Government Reform, and the administration, but I would urge Members to oppose the amendment at this time.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), I yield the gentleman from California (Ms. LOFGREN) and other Members of this body, including the gentleman from California (Mr. Berman), the gentleman from California (Mrs. Bono), the gentleman from Arizona (Mr. Flake), and the gentleman from Wisconsin (Mr. Green).

I believe this amendment has broad support, and I would urge the Members to watch who votes for it as we come to a vote, if this amendment is passed.

The INS is one of the worst Federal agencies in adopting information technology necessary to do its job more efficiently and at a lower cost. The current INS and the new immigration bureau have a core function of managing information about people. In that task, they are way behind. The INS has computers incapable of performing basic tasks, information systems that do not talk to each other, and still do things and is still doing things like putting important information on microfilm and boxing them up for storage rather than making them available to line officers via computer.
Mr. HUNTER. Mr. Chairman, I thank the gentleman from Utah for yielding me the time, and I just want to say I support his amendment. I would also like to take this opportunity to say I support the Issa amendment, which makes it mandatory for employers of INS employees and give those who think more accountability in a very, very serious and very critical position. I thank the gentleman for letting me add that endorsement of the Issa amendment.

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

Let me just point out that it has been wonderful working with the Chairman on this issue. We have, in fact, included some great provisions in the manager’s amendment that allows for more flexibility in firing. They do not go quite as far as the Issa amendment. I will point out, but this is a different issue. This is an important issue, and this issue relates to how and when and how quickly we get technology into the INS. Mr. Chairman, I yield back my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back my time.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me the time.

It is a pleasure to join in a bipartisan opposition to this Lofgren-Cannon amendment. The INS does not need a blank check from this Congress. If my colleagues like the status quo, them to get a handle on these problems. But I urge my colleagues not to care more about jurisdictional turf battles than making this immigration agency work and giving it the technology to do so. This authority is what the INS has indicated before the Committee on the Judiciary that they need to get a handle on these problems.

This is an opportunity to provide some temporary flexibility to get the right technology in place at that restructured immigration agency. It is a chance to solve some huge problems. So if my colleagues like the status quo, if they think the current technology situation at INS is great, then they should vote against this amendment. But the American people want results, and this Congress also wants results.

We are in the process, working with the technology in place to prevent dead terrorists from getting visa documents 6 months after they have attacked us and died. We should want technology in place to reduce backlogs for legal immigrants and track the whereabouts of aliens who are in this country. The way to do that is to ease the restrictions and red tape on procuring the right technology to solve these problems.

I urge my colleagues to support the Cannon-Lofgren amendment. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

This amendment is totally unnecessary. We have streamlined many of our procurement practices over the last decade, and we are now reading news reports that tell us we may have streamlined them too much. In one recent story, Charles Tiefel, the University of Baltimore professor who spent a decade here working as a House lawyer, said, “Scandals are coming,” referring to the procurement practices of the Federal Government.

Now is not the time to give a blank check to the INS, and I hope my colleagues will join us in bipartisan opposition to this amendment.

Ms. LOFGREN. Mr. Chairman, do I have the right to close?

The CHAIRMAN pro tempore. The member from Texas (Mr. TURNER).

Mr. TURNER. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me the time.

It is a pleasure to join in a bipartisan opposition to this Lofgren-Cannon amendment. The INS does not need a blank check from this Congress. If my colleagues like the status quo, them to get a handle on these problems. But I urge my colleagues not to care more about jurisdictional turf battles than making this immigration agency work and giving it the technology to do so. This authority is what the INS has indicated before the Committee on the Judiciary that they need to get a handle on these problems.

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This amendment is totally unnecessary. We have streamlined many of our procurement practices over the last decade, and we are now reading news reports that tell us we may have streamlined them too much. In one recent story, Charles Tiefel, the University of Baltimore professor who spent a decade here working as a House lawyer, said, “Scandals are coming,” referring to the procurement practices of the Federal Government.
This amendment prohibits full and open competition on information technology purchases, and I urge a no vote in a bipartisan effort. I must conclude by commending the gentlewoman from California (Ms. LOFGREN) on her excellent work in this body we usually agree, but on this one I come down on the side of the taxpayers. Full and open competition. Vote no.

Ms. LOFGREN. Mr. Chairman, how much time remains on both sides? The gentlewoman from California (Ms. LOFGREN) has 1 minute remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 3 minutes remaining.

Ms. LOFGREN. Mr. Chairman, I reserve my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me the time.

I have figured this out now. This has been confusing me, why this is a high-tech boondoggle. That is what this is. Waive the rules so the high-tech people can run wild.

The gentleman from Utah is exempt from this. They do not have many high-tech people or many minorities.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. CONYERS. Reclaiming my time, Mr. Chairman, I am so relieved, I cannot tell the gentleman how much better I feel now that he has told me.

Mr. SENSENBRENNER. The gentleman should come to Utah to see this.

Ms. LOFGREN. Mr. Chairman, I yield myself the balance of my time, and I will conclude.

I think there is some misunderstanding among some of the speakers because the amendment before us does not repeal procurement law; it merely applies the procurement efficiency laws, the Clinger-Cohen Act, to the INS, and changes the limits for a 2-year time period so that we can get some competitive bidding into this agency.

Right now, Silicon Valley companies and high-tech companies across the country are willing to come in and do assessments for what the agency needs. And actually, what they are saying is have everyone come in, not a sole source, come in and help this agency find out what it needs. We lack an enterprise architecture, and under current law we will have 2 years’ time. If we do not streamline and allow for existing streamlined procedures to be put in place on a 2-year time frame for this agency, we are going to continue to hear what we have for the last 10 years. In 2 years’ time we will have some technology. We still have 236 PCs, we still have an agency that is creating paper files. If we do not apply the existing law that allows for streamlining acquisitions to this agency, we are going to end up fighting for to waste taxpayers’ dollars; we are going to continue to have Americans put at risk because databases cannot communicate with each other.

I have seen the picture of Mohammed Atta too many times today. The reason why they were admitted is because the inspector at the gate did not know what the other hand of the INS was doing. And unless we have technology deployed in a timely agency, that deployable condition will continue to be true.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the issue is whether the INS should go into more sole-source procurement for information-technology issues. Competitive bidding keeps the cost down to the taxpayers, and it means that various vendors compete against one another on who can provide the best product for the possible cost for what the government needs.

I would remind all Members, but particularly those on the Republican side of the aisle, that the administration has a great deal of concern about this amendment, particularly the OMB. I do not think that as we restructure that agency we should throw out all of the existing procurement rules relative to computer and information-technology procurement. The time may come when the new Associate Attorney General for immigration affairs may find this necessary, but let us wait until we restructure the agency and the person who is going to be the overseer of the entire operation makes a determination of whether competitive bidding works or we should make a particular exception.

This amendment puts the cart before the horse. I would urge a ‘no’ vote to keep the cart after the horse.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Pursuant to clause 8 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. LOFGREN) will be postponed.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 6 offered by the gentleman from California (Mr. ISSA) and amendment No. 7 offered by the gentlewoman from California (Ms. LOFGREN).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 6 OFFERED BY MR. ISSA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ISSA) on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 272, not voting 17, as follows:

[Roll No. 114]

AYES—145

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Blair
Blunt
Bonilla
Bosco
Boozman
Brady (TX)
Brown (SC)
Bryant
Buyer
Callahan
Calvert
Camp
Cannan
Cantor
Chabot
Chambliss
Cobb
Collins
Combest
Coriasis
Crawford
Cubin
Culberson
Cunningham
DeLaHunt
DeMin
DeLay
DeMint
Dreier
Ehlers
Ehrlich
Emerson

Nethercutt
Northup
Norwood
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Pickering
Pitkin
Platts
Pombo
Portman
Putnam
Raner
Rahall
Ramstad
Rehberg
Riley
Rogers (MI)
Rogers (WI)
Rohan
Ryan (WI)
Ryan (KS)
Schrack
Sessions
Shadegg
Sherrard
Skates
Simpson
Souter
Stearns
Stump
Sullivas
Summers
Tancrdeo
Tasman
Taylor (MI)
Taylor (NC)
Terry
Thompson
Thompson
Thornberry
Thurmond
Tiahrt
Thune
Thornton
Toomey
Upton

THE CONGRESSIONAL RECORD — HOUSE
April 2, 2002

CONGRESSIONAL RECORD — HOUSE
April 2, 2002

CONGRESSIONAL RECORD — HOUSE
April 2, 2002
Mr. KENNEDY of Rhode Island, Mr. SAWYER, Mr. CAPITO, and Mrs. MCCARTHY of New York changed their vote from "aye" to "no."

Messrs. REHERG, BACHUS, BROWN of South Carolina, COLLINS, GOODLATTE, FRELINGHUYSEN, EVERETT, FOSSELLA, Mrs. CUBIN and Mrs. NORTHUP changed their vote from "no" to "aye."

So the amendment was rejected.

The vote was taken by electronic device, and there were—aye 105, noes 312, not voting 17, as follows:

AYES—105

[Roll No. 115]

April 25, 2002

CONGRESSIONAL RECORD—HOUSE

H1665

The vote was taken by electronic device, and there were—aye 105, noes 312, not voting 17, as follows:

AYES—105

[Roll No. 115]
April 25, 2002

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 9, not voting 21, as follows:

[Roll No. 116]

AYES—405

Mr. KERNS and Mr. WATT of North Carolina changed their vote from "aye" to "no."

Mr. HARMAN and Messrs. ADERHOLT, BERMAN and GOODLATTE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. (Mr. SIMPSON.) I believe there is no further question.

Accordingly, the Committee rose;

... and the bill was passed.

The question is on the passage of the bill.

The bill is engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

This bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRUNNER. Mr. Speaker, I demand a recorded vote.

Mr. SCHAFER. Mr. Speaker, I was inadvertently detained on rollcall 116. If I had been present, I would have voted "aye," in favor of passage.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, I regret that I had to travel to my Congressional District for an important event on April 25, 2002. Had I been present, I would have voted "no" on rollcalls 114 and 115 and "aye" on rollcall 116.
LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I rise for the purpose of inquiring about the schedule for next week, and I am pleased to yield to the gentleman from Ohio (Mr. PORTMAN) with those inquiries.

Mr. PORTMAN. Mr. Speaker, I thank the gentlewoman for yielding, and I thank her for her inquiry.

Mr. Speaker, I am pleased to announce that the House has completed its legislative business for the week. The House will meet next for legislative business on Tuesday, April 30 at 12:30 p.m. for morning hour and 2 o’clock for legislative business. On Tuesday, the majority leader will schedule a number of measures under suspension of the rules, a list of which will be distributed to the Members’ offices tomorrow. Recorded votes will be postponed until 6:30 p.m.

For Wednesday and Thursday, the majority leader has scheduled a number of measures, including H.R. 2871, the Export-Import Bank Reauthorization Act of 2002; H.R. 2604, the Multinational Development Banks Authorization Act; H.J. Res. 84, a resolution disapproving the action taken by the President under section 201 of the Trade Act of 1974; and H.R. 3994, the Afghanistan Freedom Support Act of 2002.

Additionally, Speaker HASTERT advises us that he may be ready to name conferees to the election reform legislation which passed both the House and the Senate; and, therefore, the majority leader will likely schedule a motion to go to conference on that bill next week.

I thank the gentlewoman for yielding.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for his comments. Reclaiming my time, I wanted to know if the gentleman could shed some light on what day the Nevada nuclear waste bill would be on the calendar.

Mr. PORTMAN. Our understanding of the gentleman from Florida (Chairman YOUNG) of the Committee on Appropriations is that it seems likely it will be marked up next week, or shortly. When it comes to the floor is still uncertain, but it would not be coming up next week.

Ms. PELOSI. I thank the gentleman for the information and for his courtesy.

PERMISSION FOR SPEAKER TO ENTER TAIN MOTION TO SUSPEND RULES RELATING TO H.R. 2604 ON LEGISLATIVE DAY OF WEDNESDAY, MAY 1, 2002

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Wednesday, May 1, 2002 for the Speaker to entertain a motion that the House suspend the rules relating to H.R. 2604.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

ANNOUNCEMENT OF LIMITATION ON AND PROCEDURES FOR SUBMITTING AMENDMENTS TO H.R. 2871, EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2001

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, today a Dear Colleague will be sent to all Members informing them that the Committee on Rules is planning to meet next week to grant a rule which may limit the amendment process for H.R. 2871, the Export-Import Bank Reauthorization Act of 2001.

Mr. Speaker, under suspension of the rules, a Member who wishes to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment by 12 noon on Tuesday, April 30, to the Committee on Rules here at the Capitol at H1667.

Amendments should be drafted to the text of the bill as reported by the Committee on Financial Services on October 31 of last year. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted, and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

URGING INS TO RECONSIDER PROPOSED LIMITATION ON VISITS FROM FOREIGNERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I come to the House floor this evening to express my opposition to a proposal put forward by INS Commissioner James Ziglar several weeks ago. The Immigration and Naturalization Service proposal would limit foreigners to visiting the United States for only 30 days. The current policy on visitor visas allows a stay in the United States for at least 6 months.

Mr. Speaker, this new proposal severely undermines our living in a foreign country; and on another note, the new proposal severely jeopardizes an important segment of

PREPARED TEXT FROM CONGRESSIONAL RECORD

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Mr. Speaker, this new proposal severely undermines our living in a foreign country; and on another note, the new proposal severely jeopardizes an important segment of
the U.S. economy that depends on foreign tourists.

The driving force behind the INS proposal is the attempt to improve our homeland security and to prevent terrorists from entering our country. Although I believe that INS reform is badly needed to better address our homeland security concerns, I am completely convinced that limiting visitor visas to 30 days will do nothing to better protect us from terrorists, and will in fact only place severe, undue burdens on the lawful, decent individuals abroad who come to visit the United States.

I would like to expand on exactly who would feel the effects of this proposal. It is the grandmother or grandfather who lives in another country and chooses to come to the United States to spend time with their family that has settled here. Is 30 days enough time to reunite a family? Is 30 days enough time if thousands of dollars and over 24 hours have been spent traveling to the United States? Is 30 days enough time to spend with a newborn grandchild, or a grandchild getting married? I do not think so.

Mr. Speaker, over 70,000 people in the United States have signed a petition against this proposal in the last 10 years or so. Interestingly enough, the INS has not thought so, or has not agreed with this proposal for the past 10 years. In fact, they have suggested the opposite.

The INS is arbitrarily changing this law in response to September 11, but the change will be ineffectual in preventing further terrorism. In fact, there are two detrimental effects that I foresee with this proposal.

First, if visitors are provided only a 30-day visa, it is likely that upon entrance to the United States, these visitors will apply for a visa extension. This is the exact reason why the INS extended the visitor’s visa to 6 months, so tourists could accomplish the purpose of their visit, leave the United States within the given time here, and not further overload the INS. This will not be the case if the 30-day limit is implemented.

Mr. Speaker, the second reason, I think, which is so important, is that we are all aware of the impact on the tourism industry in the United States after September 11. The airline industry and tourism industry would be drastically affected by the decrease in visits to the United States that would be a result of visitors finding that 30 days is not worth the great effort required to visit the United States.

Mr. Speaker, I know that the INS has thought about this, but I think they need to reconsider. I urge the INS to reconsider their proposal. It will in no way fight terrorism, and only serves to trample on the legitimate visits from relatives with legitimate residents of the United States.

**SHOE BOB** AND INTERFAITH OUTREACH TEAM UP TO HELP HOMELESS IN MINNESOTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, I rise to pay tribute to a true servant leader who proves, year after year, that one person can make a big difference in the lives of people in need.

Bob Fisher of Bob’s Shoe Repair in Wayzata is renowned for raising more than $1 million over the past 6 years by his winter “sleep-outs” to help people who are homeless.

This past winter alone, on behalf of Interfaith Outreach and Community Partners, “Shoe Bob,” as we affectionately call him, raised $520,000 for Interfaith Outreach’s community housing fund during his 30-day sleep-out for the homeless.

Sleeping outside in subzero temperatures in Minnesota winters, that has become Bob Fisher’s trademark. Bob’s well-worn tent and sleeping bag have not only raised badly needed funds to provide housing, but his sleep-outs have raised public awareness of the housing shortage and the increasing number of homeless families in our Lake Minnetonka community, State, and Nation.

Bob is teamed up with other caring people at Interfaith Outreach and Community Partners who distribute the housing resources he raises to homeless families.

Led by one of Minnesota’s greatest humanitarians, LaDonna Hoy, and supported by an active board of truly charitable community leaders, Interfaith Outreach helps kick off Bob’s sleep-out for the homeless each and every year.

More than 500 supporters gathered on November 17 to kick off last year’s sleep-out, featuring a soup supper with bread, hot chocolate, and water served by the Girl Scouts. And thanks to the Boy Scouts, four campfires kept everyone warm along Lake Street in Wayzata as the various churches that support Interfaith Outreach provided song and spirit.

The distinguished mayors of our five neighboring communities issued their “Housing Week” proclamation, and 200 young students joined Bob Fisher in sleeping outside on the first night in the 2001 cold. Two local bank employees also slept outside with Bob to offer their support.

Mr. Speaker, I know firsthand that Bob’s sleep-outs are a true ordeal, as I slept outside in December of 1997 in below-zero temperatures as part of Bob’s sleep-out for the homeless. It was a night of bone-chilling cold, well spent, as we raised several thousand dollars to help bring homeless families in from the cold.

Mr. Speaker, every year the fundraising work for Bob Fisher’s sleep-outs gets higher, reflecting his strong commitment, infectious enthusiasm and energy, as well as the increasing need for more affordable housing in the Twin Cities’ western suburban area.

Bob Fisher, Interfaith Outreach, and the people of our Lake Minnetonka communities are already looking forward to this year’s Housing Week.” November 16 to 23, 2002, which will once again be kicked off by Bob Fisher’s sleep-out for the homeless. In fact, Interfaith Outreach and Community Partners is working hard to expand this campaign by encouraging community involvement throughout Minnesota and the NOrth to follow Bob’s example.

I urge my colleagues to take Bob Fisher’s story back to their communities and tell their constituents how one person in Minnesota, a cobbler with a big heart, has made a big difference in the lives of countless homeless people.

Tell America the story of “Shoe Bob” and his mission to help homeless families secure affordable housing. Tell America how one person has increased public awareness of the homeless problem, bolstered community involvement in addressing the housing shortage, and raised more than $1 billion to help families with their housing crises.

Yes, Mr. Speaker, Bob Fisher has proved that one person can make a big difference in the world, as he has walked in the shoes of the homeless. We salute you, Bob Fisher, just as we salute Interfaith Outreach and Community Partners.

Our gratitude also goes out to all who have supported Shoe Bob’s sleep-outs for the homeless. He is truly doing the Lord’s work, and he represents the absolute best in public service.

Thank you, Bob Fisher. Thank you to all my friends at Interfaith Outreach and Community Partners. Our gratitude also goes out to all who have supported this worthwhile, important drive to help people who are homeless.

**URGING MEMBERS TO CONSIDER COSPONSORING IMPORTANT LEGISLATION CONCERNING SCIENCE EDUCATION**

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, we are at the end of Earth Day week. I have always felt that if one is a Member of Congress, the best way to celebrate Earth Day and the week in which it occurs is to legislate. After all, we are Members of Congress. We can do more than hug trees and go to river sites.

Congress is now all entangled in the energy bill and the ANWR controversy, but there are many noncontroversial matters that need to be taken up in legislation.

I urge Members to go on to two bills I introduced this week. One is called the Academy Excellence In Environmental Sciences Act of 2002. It aims to make environmentalists and scientists
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April 25, 2002

PETER ROHRABACHER. Mr. Speaker, today I am introducing the Pete Conrad Astronomy Award Act. This act is intended to encourage amateur astronomers to discover new and attract previously identified asteroids and other heavenly bodies, particularly those that threaten a close approach to the Earth. This act is named after the legendary pilot, astronaut and space entrepreneur, Pete Conrad, who I was honored to know. He was a constituent of mine. Unfortunately, he passed away after a tragic motorcycle accident just last year. Charles Pete Conrad made history and today in his honor and in his memory I am introducing a bill that could help protect the United States of America and, yes, the entire world.

Pete Conrad more than anything else was a patriot who loved his country and felt that space would provide peace and prosperity for all of human kind. This act contains three categories of awards. The first category is an award for the amateur astronomer who discovers the largest asteroid crossing in near-Earth orbit.

The second category, an award to an amateur astronomer for discovering asteroids using information derived from professional sources and locating newly discovered asteroids.

The third category, an award for those who provide the greatest service to the United States of America. That is why I think we ought to begin here with the Anacostia and then go to the great watersheds. They are in New York. They are in L.A. They are in Baltimore. They are across the United States. Be-

cause they have been in cities, people have not paid much attention to them. They have been polluted industrially or, in our case, by the Federal Government. This would be on a 75-25 percent basis use Federal, State, and local funds to begin the cleanup of urban watersheds.

You cannot revitalize a community without revitalizing its river. When you do both, you transform an entire city and an entire area. We would never allow such polluted rivers to be in our countrysides. We must not allow them to encroach on our large cities, especially since these cities are now beginning to develop along the water.

Congressman, you do not have to worry about that. There is about as much chance of a comet hitting the Earth as it is of you going to Las Vegas and getting a royal straight flush. And I said, Oh, my gosh. I did get a royal straight flush once. I remember that happening.

So this is a real threat, but it is not something we have to fear. It is something we have to look at and try to do something about it. It is called Home Planet Defense. We need to pay some attention to it; and then if an asteroid does threaten us, we will be able to identify it far in advance and deter it from its path so it would not hurt the people of the world.

This is the purpose of this Pete Conrad bill. We want to get our young people more interested in space and science and mathematics. This bill is a way to do it. The awards will be administered by the Smithsonian Institution, and I am asking all of my colleagues to join me in co-sponsoring the Pete Conrad Award bill because this bill will do a great deal in bringing to our
young people the realities of science and America’s space program. Let us get them off of these electronic games and get them into the real world and we may well be dealing with threats coming to us from outer space from green lights away, steroids and crooks that we should know about.

Again, I ask my colleagues to join me in co-sponsoring the Charles Pete Conrad Astronomy Award Act, and I look forward to working with my colleagues and seeing that we get young Americans looking up just like Pete Conrad, always looking up and getting involved.

**NATIONAL MINORITY CANCER AWARENESS WEEK**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, this week marks the 15th annual National Minority Cancer Awareness Week, to highlight and bring attention to the cancer care needs of socioeconomically disadvantaged and medically underserved communities.

I come to the floor today to recognize the American Cancer Society, the Intercultural Cancer Council, and the National Center for Minority Health and Disparities at the National Institutes of Health for their continued work to increase the awareness of cancer and reduce health disparities among minorities.

While there has been a decline in cancer mortality since 1991, cancer still is the second leading cause of death in the United States, accounting for more than 555,500 deaths each year. That is more than 1,500 deaths a day. But what is most disheartening and most disturbing is that minority and medically underserved populations continue to bear a staggering disproportionate share of the Nation’s cancer burden.

According to the American Cancer Society, African American men and women have a cancer death rate of about 33 percent higher than whites. Among women younger than 50 years of age, African Americans are more likely to develop breast cancer than whites. Prostate cancer will claim the lives of more than twice as many African American men as men of other racial and ethnic groups. African Americans are at a significantly higher risk of death from intrauterine and bladder cancers. Hispanic women have nearly twice the rates of cervical cancer than non-Hispanic white women. Hispanics are less likely than other minorities to have a regular source of health care, visited a physician in the past year, and received a routine physical examination. Native American women with breast cancer have the lowest 5-year survival rate of any United States racial or ethnic group. And native Hawaiian women have the highest incidence and mortality rates of endometrial cancers of all United States women.

There is something equally as important as statistics, and that is the question, why our cancer rates are disproportionately high among minorities. According to a study published in the Journal of the American Medical Association April 23 of this year, higher cancer rates in minorities seem to stem from difference in treatment, not biological or genetic differences.

I say to my colleagues, to be truly effective in eradicating all types of cancer, the Federal health agenda must address low-income minorities and medically underserved populations. I think Congress can be instrumental in helping to accomplish this goal in this country. In fact, at my request during the 106th Congress, the Committee on Government Reform held a hearing that afforded us the opportunity to engage in a more exhaustive investigation of the disparities in cancer treatments of minorities. This hearing was a positive first step in addressing the issue of disparities and cancer treatment of minorities in the United States.

In keeping with this, Mr. Speaker, I look forward to the Congressional Black Caucus Health Braintrust, chaired by the gentlewoman from the Virgin Islands (Ms. CHRISTENSEN), met to discuss a report which had been requested by the gentleman from Illinois (Mr. JACKSON) and others, from the Institute of Medicine and that report was titled “Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care.”

This report concluded that Americans of color often receive lower-quality health care than do whites; and these disparities contribute to high death rates of African Americans from cancer, heart disease, diabetes, HIV/AIDS, and other life-endangering conditions.

The American Cancer Society, health care providers, community organizations, and State and local agencies and many other participants agree that we need to do more; that there needs to be more cooperation between the Department of Health and Human Services, local and State health agencies, medical schools, businesses, et cetera, to address the disparities in minorities health care treatment but especially for life-endangering illnesses like cancer. Let us recognize the National Minority Cancer Week as an opportunity to increase awareness in the knowledge of cancer detection treatment and risk through, among other things, target outreach programs to minorities and other underserved communities.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. TANCREDO), and I offered two amendments to the farm bill that would close these loopholes and strengthen the penalty for violations of animal fighting laws. These two amendments passed overwhelmingly by this body by voice vote, adopted in identical form in the Senate. This, in fact, should not even be a conference item. Identical language was adopted by both the House and the Senate. The intent of both chambers was to close the loophole, ban foreign export of fighting animals, and increase the penalty.

According to the House Agriculture Committee’s Web site, a conference committee is permitted to act only with matters in disagreement between the House and the Senate. It may not change language that both have previously approved.
SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. Pallone) to revise and extend their remarks and include extraneous material:

Mr. Pallone, for 5 minutes, today.
Ms. Norton, for 5 minutes, today.
Mr. Shows, for 5 minutes, today.
Mr. Blumenauer, for 5 minutes, today.

The following Members (at the request of Mr. Ramstad) to revise and extend their remarks and include extraneous material:

Mr. Rohrabacher, for 5 minutes, today.
Mr. Ramstad, for 5 minutes, today.
Mr. Issa, for 5 minutes, today.
Mr. Norwood, for 5 minutes, today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. Cummings, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

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.

ADJOURMENT

Mr. Blumenauer. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; according (at 3 o'clock and 50 minutes p.m.) to the previous order, the House adjourned until Monday, April 29, 2002, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

6386. A letter from the Assistant Secretary, Department of Defense, transmitting a letter providing information on a report entitled, “Support for Child Care Services and Youth Program Services”; to the Committee on Armed Services.

6387. A letter from the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, transmitting the Administration’s FY 2001 Annual Report on Initiatives to Address Management Deficiencies, pursuant to 12 U.S.C. 1709(v); to the Committee on Financial Services.


6389. A letter from the Assistant Secretary for Legislative and Public Affairs, Department of State, transmitting a report concerning compliance by the Government of Cuba with the U.S.-Cuba Migration Accords of September 9, 1994, and May 2, 1995; to the Committee on International Relations.

6390. A letter from the Secretary, Department of Agriculture, transmitting the semiannual report of the Inspector General for the 6-month period ending September 30, 2001; pursuant to 2 U.S.C. 552(a)(7); (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.


6392. A letter from the Secretary, Department of the Treasury, transmitting the Financial Report of the United States Government for Fiscal Year 2001 (Financial Report); to the Committee on Government Reform.

6393. A letter from the White House Liaison, Department of Commerce, transmitting the Department’s Annual Report of the Program Services Office, pursuant to 15 U.S.C. app.; to the Committee on Government Reform.

6394. A letter from the Assistant Secretary for Management and Administration, Department of Health and Human Services, transmitting the Department’s Commercial Activities Inventory for Fiscal Year 2001; to the Committee on Government Reform.

6395. A letter from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting the Department’s Commercial Activities Inventory for Fiscal Year 2001; to the Committee on Government Reform.

6396. A letter from the Secretary, Department of Education, transmitting the twenty-fifth Semiannual Report to Congress on Audit Follow-Up, covering the period from April 1, 2001 to September 30, 2001 in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Reform.

6397. A letter from the Acting Administrator and Chief Executive Officer, Bonneville Power Administration, Department of Energy, transmitting the 2001 Annual Report of the Bonneville Power Administration, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

6398. A letter from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting the Department’s Commercial Activities Inventory for Fiscal Year 2001; to the Committee on Government Reform.

6399. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Energy Policy and Conservation Act during the calendar year 2001, pursuant to 5 U.S.C. 552(b); to the Committee on Government Reform.

6400. A letter from the Secretary, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.


6402. A letter from the Acting General Counsel, National Endowment for the Humanities, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6403. A letter from the Director, National Science Foundation, transmitting a report pursuant to the Inspector General Act of 1983; to the Committee on Government Reform.
By Mr. MOORE (for himself, Mr. BALLenger, Ms. ROSLeHTNEN, Mr. BURton of Indiana, Mr. GALLEgOy, Ms. Jo ANn DAVis of Virginia, Mr. spHAIr of New Jersey, Mr. GILLIAn, Mr. ROYCE, Mr. CHAPoT, and Mr. TANCHERD): H.R. 4590. A bill to authorize the President to award a gold medal on behalf of Congress to Mr. William All in recognition of his contributions to the Nation; to the Committee on Financial Services.

By Mr. CCYT (for himself, Mr. BALLenger, Ms. ROSLeHTNEN, Mr. BURton of Indiana, Mr. GALLEgOy, Ms. Jo ANn DAVis of Virginia, Mr. spHAIr of New Jersey, Mr. GILLIAn, Mr. ROYCE, Mr. CHAPoT, and Mr. TANCHERD): H.R. 4591. A bill to support the democratically elected Government of Colombia and the unified campaign against illicit narcotics trafficking, terrorism activities, and other threats to the national security of Colombia; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE (for himself, Mr. WAXMAN, Mr. BERGER, Mr. BRIEFER, Mr. RASHER, Mr. ABACHER, Mr. LEWIS of California, Mr. ROYCE, Mr. PomBO, Mr. CALVIrT, and Mr. MCKIEn): H.R. 4592. A bill to name the chapel located in the national cemetery in Los Angeles, California, as the “Bob Hope Veterans Chap- nel”; to the Committee on Veterans’ Affairs.

By Mr. HILL (for himself, Mr. MATHHeSON, Mr. TURNER, Mr. STENHOLm, Mr. BoYD, Mr. MOORE, Mr. TANNER, Mr. BERRY, Mr. HOLDEN, Mr. ROSS, Mr. Ross, Mr. BOYD, Mr. BEATTY, Mr. Convenient, Mr. SCHIFF): H.R. 4593. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MOORE (for himself, Mr. HILL, Mr. TANNER, Mr. STENHOLm, Mr. HOLDEN, Mr. SandLIN, Mr. ROSS, Mr. PROUD, Mr. KISS, Mr. ISRAEL, Mr. MATHHeSON, Mr. PHILPS, Mr. HarMAN, and Mr. TURNER): H.R. 4594. A bill to increase the statutory debt limit and to require a Presidential plan to restore balanced budgets and protect So- cial Security; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER (for himself and Mr. SCHROCK): H.R. 4595. A bill to amend title 32, United States Code, to revise the matching funds requirements for States participating in the National Guard Challenge Program, and for other purposes; to the Committee on Armed Services.

By Mrs. CAPPs (for herself, Mrs. ROUKema, Mr. DINGELL, Mr. JEFFerson, Mr. SIEKer of New York, Mr. KENNedy of Rhode Island, Mr. McNUTTy, Mr. TOWNS, Ms. BROWN of Florida, Mr. FELNER, Mr. SERRAno, and Mr. LoWEY): H.R. 4596. A bill to provide for a comprehensive Federal effort relating to treat- ments for, and the prevention of cancer, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provi- sions as fall within the jurisdiction of the committee concerned.

By Mr. CARDIN: H.R. 4597. A bill to prevent nonimmigrant aliens who are delinquent in child support payments from gaining entry into the United States; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHAMBLISS (for himself, Ms. HarMAN, Mr. Goss, Ms. PRiLOSI, Mr. SENSsENHEnner, Mr. Smith of Texas, Mr. B Upho, Mr. ConDey, Mr. HOUk- StrA, Mr. ROKER, Mr. BURk of North Carolina, Mr. REYs, Mr. BRRuTrR, Mr. BoWSeLL, Mr. PETERSON of Minnesota, Mr. CHAmEs, Mr. HASTTrINo of Florida, Mr. ROKERS of Michigan, Mr. FRANK, Mr. BARK of Georgia, Mr. FoRST, Mr. SULLIVAn, Mr. BALDucci, Mr. BARK of Colorado, Mr. FReDerman, Mr. TIRnEY, and Ms. HART): H.R. 4598. A bill to provide for the sharing of homeland security information by Federal intelligence agencies with State and local entities; to the Com- mittee on Intelligence (Permanent Select), and in addition to the Committee on the Ju- diciary, for a period to be subsequently de- termined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California: H.R. 4599. A bill to establish a pilot program to encourage certification of teachers in low-income, low-performing public ele- mentary and secondary schools by the Na- tional Board for Professional Teaching Standards, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GREENWooD (for himself, Mr. COX, Mr. MURTHA, Mr. TOOMey, Mr. MoTHAM of Virginia, Mr. PETERSON of Minnesota, Mr. STENHOLm, Mr. LUCas of Kentucky, Mr. PIRCkering, and Mr. WELDoN of Florida): H.R. 4600. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive bur- den the liability system places on the health care delivery system; to the Committee on the Judiciary, and in addition to the Com- mittee on Energy and Commerce, for a pe- riod to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdic- tion of the committee concerned.

By Mr. SMITH of Ohio: H.R. 4601. A bill to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Or- egon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes; to the Committee on Re- sources.

By Mr. DINGELL (for himself and Mrs. LoWEY): H.R. 4602. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy diet for all women in the United States, to reduce the rate of maternal mor- tality and morbidity associated with the sick- ing pregnancy, to expand public health pre- vention, education and outreach, and to de- velop improved and more accurate data col- lection related to maternal mortality and morbidity; to the Committee on Energy and Commerce.

By Mr. GILLIORM: H.R. 4603. A bill to amend the Internal Revenue Code of 1986 to provide that the segment tax on domestic air transportation shall not apply to segments to or from cer- tain islands; to the Committee on Ways and Means.

By Ms. Gränger (for herself, Mr. Wynn, Mr. CoosKEY, Mr. oWENs, and Mr. SMITH of New Jersey): H.R. 4604. A bill to amend the Internal Revenue Code of 1986 to allow individuals a re- fundable credit against income tax for the purchase of private health insurance; to the Committee on Ways and Means.

By Mr. KUCINICH: H.R. 4605. A bill to amend the Nuclear Waste Policy Act of 1982 with respect to transportation of nuclear waste; to the Committee on Energy and Commerce, and in ad- dition to the Committee on Transportation and Infrastructure, for a period to be subse- quently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Markey (for himself, Mr. DIN- GELL, and Mr. SMITH of New Jersey): H.R. 4606. A bill to direct the Public Health Service Act to provide for Alz- heimer’s disease research and demonstration grants; to the Committee on Energy and Commerce.

By Mr. Markey (for himself, Mr. Han- sen, Mr. OLIVER, Mr. Neal of Massa- chusetts, Mr. McCooVERn, Mr. FRANK, Mr. MEGHAN, Mr. TURNER, Mr. CAPUANO, Mr. LYNCH, and Mr. DELAHuNT): H.R. 4607. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Energy and Com- merce.

By Mr. MorAn of Kansas (for himself and Mr. TiahRt): H.R. 4608. A bill to name the Department of Veterans Affairs medical center in Wichita, Kansas, as the “Robert J. Dole Veterans Affairs Medical Center”; to the Committee on Veterans’ Affairs.

By Mr. NEThERCUtt (for himself and Mr. SHERIDAN): H.R. 4609. A bill to direct the Secretary of the Interior to conduct a comprehensive study of the Rathbun Prairie/Skopek Val- ley Aquifer, located in Idaho and Wash- ington; to the Committee on Resources.

By Ms. norton: H.R. 4610. A bill to direct the Adminis- trator of the Environmental Protection Agency to carry out a pilot program for rest- oration of urban watersheds and community environmental infrastructure in the water- shed, District of Columbia and Maryland, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OLIVER (for himself, Mr. ALLEN, Mr. INgLe, Mr. HINCHey, Mr. GiLCHrEST, Mr. George MiLLer of California, and Mr. FaR of Cali- fornia): H.R. 4611. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States green- house gas emissions to inform the public and private sectors concerning, and encourage voluntary reductions in, greenhouse gas emissions; to the Committee on Energy and Commerce.
emissions; to the Committee on Energy and Commerce.

By Mr. OSE (for himself and Mr. Diaz-Balart):
H.R. 4615. A bill to amend the Federal Credit Union Act to provide expanded access for persons in the field of membership of a Federal credit union to money order and check cashing services; to the Committee on Financial Services.

By Mr. ROHRABACHER:
H.R. 4613. A bill to authorize the Board of Regents of the Smithsonian Institution to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids near-Earth orbit trajectories; to the Committee on Homeland Security.

By Mr. SANDERS:
H.R. 4614. A bill to permit commercial importation of prescription drugs from Canada, and for other purposes; to the Committee on Energy and Commerce.

By Mr. UDALL of New Mexico (for himself, Mr. Moran of Kansas, Mr. Lucas of Oklahoma, Mr. Berry, Mr. Skinn, and Mr. Reyes):
H.R. 4615. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify a route that passes through the State of Texas, New Mexico, Oklahoma, and Kansas, as a high priority corridor on the National Highway System; to the Committee on Transportation and Infrastructure.

By Mr. BERRY (for himself, Mr. Johnson, Mr. Boyd, Mr. Turner, Mr. Stenholm, Mr. Boswell, Mr. Taylor of Mississippi, Ms. Harman, Mr. Ross, Mr. Sandlin, Mr. Hall of Texas, Mr. Sessions, Mr. Phillips, Mr. Lipinski, Mr. Bishop, Mr. Condit, and Mr. Edwards):
H.R. Res. 90. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. KELLER (for himself, Mr. Upson, Mr. Hillery, Mr. Boener, Mr. Tachenro, Mr. Holmes, Mr. Isakson, Mr. Pence, Mr. Tibshri, Mr. Souder, Mr. Petri, Mr. McKeon, Mr. Bues of North Carolina, Mr. Markey, Mr. Bayh, and Mr. Hoeschstetter):
H. Con. Res. 386. Concurrent resolution supporting a National Charter Schools Week, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BARTON of Texas (for himself and Mr. Moore):
H. Con. Res. 367. Concurrent resolution recognizing the American Society of Civil Engineers for reaching its 150th Anniversary and for the many vital contributions of civil engineers to the quality of life of our Nation’s people including the research and development projects that have led to the physical infrastructure of modern America; to the Committee on Science.

By Mrs. CHRISTENSEN (for herself, Mr. Watts of Oklahoma, and Mr. Rosewood):
H. Con. Res. 388. Concurrent resolution expressing the sense of the Congress that there should be established a National Minority Health Month, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TANNER (for himself, Mr. Manzullo, Mr. Hill, Mr. Moore, Mr. Stenholm, Mr. Phillips, Mr. Berry, Mr. Sandlin, Mr. Holden, Mr. Ross, Mr. Schiff, Mr. Israel, and Mr. Bilbray):
H. Res. 397. A resolution amending the Rules of the House of Representatives to require a three-fifths vote to pass any measure the enactment of which would result in a deficit in the unified budget of the United States for any fiscal year; to the Committee on Rules.

By Mr. WATKINS (for himself, Mr. Delahunt, Mr. Murttha, Mrs. Roukema, Mr. Kennedy of Rhode Island, Mr. Lynch, Mr. Sullivan, Mr. Lucas of Oklahoma, Mr. Oberstar, Mr. Watts of Oklahoma, Mr. Carson of Oklahoma, and Mr. Bereuter):
H. Res. 398. A resolution recognizing the devastating impact of fragile X, urging increased funding for research on fragile X, and commending the goals of National Fragile X Research Day, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LATHAM (for himself, Mr. Hansen, Mr. Hafrect, and Mr. Cannon):
H. Res. 399. A resolution honoring Cecil Sanders for his perfect collegiate wrestling record; to the Committee on Education and the Workforce.

By Mr. SMITH of New Jersey (for himself, Mr. Doyle, Mr. King, Mr. Tom Davis of Virginia, Mr. Brady of Pennsylvania, Mr. Holt, Mr. Menendez, Mr. Levin, Mr. Platts, Mr. Langevin, Mr. Goodlatte, Mrs. Maloney of New York, Mr. Davis of Florida, Mr. Shays, Mr. Davis of Florida, Mr. Lynch, Mr. Cantor, Mrs. Morella, Mr. Reyes, and Mr. Goodlatte):
H. Res. 400. A resolution recognizing the importance of increasing awareness of the autism spectrum disorder, and supporting programs for greater research and improved treatment of autism and improved support and training for individuals with autism and those who care for them; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, Mr. OSE introduced a bill (H.R. 4616) for the relief of Alfonso Quezada-Bonilla; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under Clause 7 of rule XII, Sponsors were added to public bills and resolutions as follows:
H.R. 17: Mr. Price of North Carolina and Mr. Gordon.
H.R. 218: Mr. Jeff Miller of Florida.
H.R. 632: Mr. Ford.
H.R. 647: Mr. Jones of North Carolina.
H.R. 730: Mr. Davis of Virginia.
H.R. 766: Mr. Lewis of Georgia.
H.R. 854: Mr. Etheridge, Mr. Burr of North Carolina, Mr. Sanders, Mr. Collins, Mr. Chambliss, and Mr. Taylor of North Carolina.
H.R. 870: Mr. Masa.
H.R. 902: Mr. Barlow.
H.R. 938: Mr. Hoeffel.
H.R. 951: Mr. Sandlin, Mr. Grucci, and Mr. Turner.
H.R. 962: Mr. Lucas of Kentucky.
H.R. 1090: Mr. Jenkins, Mr. Lampson, Mr. Ros-Lehtinen, Mr. Davis of Florida, Mr. Baca, Mr. Cummings, Mr. Rangel, and Mr. Brown of Ohio.
H.R. 1184: Mr. Gekas.
H.R. 1198: Mr. Shays and Mr. Carson of Oklahoma.
H.R. 1296: Mr. Brady of Texas.
H.R. 1305: Mr. Diaz-Balart.
H.R. 1307: Mr. Watt of North Carolina and Mr. Bishop.
H.R. 1331: Mr. Hayes.
H.R. 1371: Mr. Davis of Illinois.
H.R. 1433: Mr. Snyder.
H.R. 1436: Mr. Pickering, Mr. Lucas of Oklahoma, and Mr. Oberstar.
H.R. 1598: Mr. Ford, Mr. Larsen of Washington, Mr. Towns, Ms. Maloney of New York, and Mr. Aderholt.
H.R. 1604: Mr. Boozman.
H.R. 1609: Mr. Burr of North Carolina and Mr. Pice of North Carolina.
H.R. 1642: Mr. McDermott, Mr. Ford, Mr. Faleomavaega, Mr. McNulty, Ms. Jones of Ohio, and Mr. Hinchey.
H.R. 1794: Mr. Sabo.
H.R. 1795: Ms. Brown of Florida, Mr. Hasting of Florida, Mr. Tannero, Mr. Davis of Florida, Mr. Quinn, Mr. Thompson of California, Mr. Baca, and Mr. Brown of Ohio.
H.R. 1803: Mr. Hoeffel.
H.R. 1822: Mr. George Miller of California.
H.R. 2161: Mrs. Capito.
H.R. 2222: Mr. Rahall.
H.R. 2419: Mr. Underwood.
H.R. 2422: Mr. Lee, Mr. Hilliard, Mrs. Mink of Hawaii, Mr. Sanders, and Mr. McGovern.
H.R. 2484: Mr. Clement, Mr. Kanjorski, Mr. Langevin, Mr. Callahan, Mr. Carson of Oklahoma.
H.R. 2550: Mr. Frank.
H.R. 2553: Mr. Moran of Virginia.
H.R. 2570: Mrs. Jones of Ohio.
H.R. 2695: Mr. Filner.
H.R. 2714: Mr. Gekas and Mr. Pence.
H.R. 2726: Mr. Simpson and Mr. Platts.
H.R. 2735: Mr. Udall of Colorado and Mr. Price of Ohio.
H.R. 2833: Mr. Berman, Mr. Royce, and Mr. Tannero.
H.R. 2674: Mr. Langevin, Mr. McGovern, Ms. Velazquez, Ms. Millender-McDonald, and Mr. Moran of Virginia.
H.R. 3080: Mr. Manzullo.
H.R. 3961: Mr. Evans.
H.R. 3131: Mr. Nadler and Mr. Abercrombie.
H.R. 3132: Mr. Filner and Mr. Bonder.
H.R. 3241: Mr. Sanders.
H.R. 3275: Ms. Roukema.
H.R. 3414: Mr. Dicks.
H.R. 3415: Mr. Bonker.
H.R. 3431: Mr. Deutch, Mr. Boyd, Mr. Larson of Connecticut, and Mr. Cummings.
H.R. 3439: Ms. Hart.
H.R. 3462: Mr. Matsui, Ms. Harman, Mr. Rogers of Michigan, Mr. Hoeffel, and Mr. Boyd.
H.R. 3469: Ms. Slaughter, Mr. Abercrombie, Mrs. Morella, Mrs. Lowry, Mr. Gonzalez, Ms. Schakowsky, Mrs. Christensen, Ms. Baldwin, Ms. Velazquez, Ms. Jackson-Lee of Texas, Mr. Andrews, Mr. Wilson, Mr. Bilbrough, Mr. Smith of Washington, Mr. Jefferson, Mr. Price of North Carolina, Mr. Baird, Mr. Holt, Mrs. Jones of Ohio, Mr. Paston, Mr. Baldacci, Mr. Davis of Illinois, Mr. Hilliard, Mr. Waxman, Mrs. Thurman, Mr. Stark, Mr. Meeks of New York, Ms. Brown of Florida, and Ms. Roybal-Allard.
H.R. 3476: Mr. Kilder and Mr. Baca.
H.R. 3512: Ms. Hart.
H.R. 3524: Ms. Clayton.
H.R. 3535: Mr. Rangel.
H.R. 3585: Mr. Udall of Colorado, Ms. Eshoo, Ms. McCarthy of Missouri, and Mr. Pomeroy.
H.R. 3599: Mr. Meek, Mr. Sanders, Mr. Larson of Connecticut, Mr. Oboshe, and Mr. Hobson.
H.R. 3684: Mr. Grucci.
H.R. 3710: Mr. Tierney.
H.R. 3788: Mr. Meehan.
H.R. 3794: Ms. Lee, Mr. Payne, Mr. McGovern, Mr. Gallego, and Mr. Platts.
H.R. 3808: Mr. Petri, Mr. Manzullo, Mr. Tancredo, Mr. Stump, and Mr. Shimkus.
H.R. 3831: Mrs. Myrick and Mr. Frank.
H.R. 3833: Mr. Shows.
H.R. 3900: Mr. Foley.
H.R. 3917: Mr. Hoeffel and Mr. Kennedy of Rhode Island.
H.R. 3940: Mr. Brown of South Carolina.
H.R. 3957: Mr. Platts.
H.R. 3994: Mr. Menendez, Mr. Hoeffel, Mr. Faleomavaega, Mrs. Napolitano, Mr. Payne and Mr. Rohrabacher.
H.R. 4000: Mr. Schaffer, Mr. Dooley of California, and Mr. Pastor.
H.R. 4062: Ms. Carson of Indiana.
H.R. 4093: Mr. Holt.
H.R. 4011: Mr. Filner and Mr. Stark.
H.R. 4014: Mr. Lucas of Oklahoma.
H.R. 4027: Mr. Putnam and Mr. Evans.
H.R. 4032: Mr. Fattah, Mr. Meeks of New York, Mr. Lantos, Mr. Rush, Mr. Olver, Mr. Frost, Mr. Kucinich, Mr. Bonior, Mr. Ford, Mr. Gonzalez, and Mr. Hastings of Florida.
H.R. 4066: Mr. Rothman, Ms. McCollum, Mrs. Kelly, Mr. Berry, Mr. Cardin, Ms. Lee, and Ms. McKinney.
H.R. 4152: Mr. Kingston and Ms. Hart.
H.R. 4169: Mrs. Curb.
H.R. 4175: Mr. Granger.
H.R. 4176: Ms. Granger.
H.R. 4177: Mr. Granger.
H.R. 4209: Mr. Clement and Mr. Gonzalez.
H.R. 4483: Mr. Gibson, Mr. Norwood, Mr. Graves, and Mr. Kennedy of Minnesota.
H.R. 4515: Mr. Thompson of California.
H.R. 4574: Mr. Platts.
H.R. 4582: Mr. McHugh.
H.J. Res. 40: Mr. Ose.
H.J. Res. 96: Mr. Burton of Indiana.
H. Con. Res. 320: Mr. Rangel.
H. Con. Res. 336: Ms. Pelosi, Mr. Lewis of California, and Mr. Filner.
H. Con. Res. 346: Mrs. Lowey and Mr. Sabo.
H. Con. Res. 351: Mr. Allen, Ms. Carson of Indiana, Mr. Frank, and Mr. Filner.
H. Con. Res. 355: Ms. Ros-Lehtinen, Mr. Maloney of Connecticut, Mr. Ford, Mrs. Lowey, and Mr. Schaffer.
H. Con. Res. 358: Mr. Bonior.
H. Res. 392: Mr. Arney, Mr. Hoeffel, Mr. Otter, Mrs. McCarthy of New York, Mr. Watts of Oklahoma, Mr. Terry, Mr. Israel, Mr. Costello, Ms. Ros-Lehtinen, Mr. Sherman, Mr. Rothman, Mrs. Kelly, Mr. Baca, Mr. Platts, Mr. Souder, Mr. LoBiondo, Mr. Diaz-Balart, Mr. Chane, Mr. Gutiérrez, Mr. Graves, Mr. Matsui, Mr. Foley, Mr. Weldon of Florida, Mr. Cole, Mr. Saxton, Mr. Pence, Mr. Weiner, Ms. Hasting of Florida, Mr. Gibson, Mr. Schrock, Mr. Kennedy of Minnesota, Mr. McIntyre, Mr. Barton of Texas, and Mr. Grucci.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2142: Mr. Pitts.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 6, by Mr. STEVE ISRAEL on House Resolution 352: Paul E. Kanjorski.

Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Charles W. Stenholm.
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 Courage worthy to be copied;
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 scams and schemes;
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 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 Yest 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.

APPPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk will please read a communication 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, President 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.

S3337

Printed on recycled paper.
The PRESIDING OFFICIAL (Mr. MILLS). Are there any other Senators in the Chamber desiring to vote?

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

[Roll Call Vote No. 85 Ex.]

**YEAS—99**

Akaka
Allen
Allard
Baucus
Bayh
Bennett
Biden
Bingaman
Boren
Boxer
Brownback
Bunning
Burns
Campbell
Cantwell
Cardin
Chaffee
Chambliss
Clinton
Coats
Collins
Conrad
Corzine
Cochran
Cleland
Chafee
Carper
Carnahan
Collins
Conrad
Corzine
Craig
Craapo
DeWine
Dodd
Domenici
Helms

Biden
Bingaman
Borum
Boxer
Brownback
Bunning
Burns
Campbell
Cantwell
Cardin
Chaffee
Chambliss
Clinton
Coats
Collins
Conrad
Corzine
Craig
Craapo
DeWine
Dodd
Domenici
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 OFFICIAL. 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 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.

[Roll Call Vote No. 86 Ex.]

**YEAS—99**

Akaka
Allen
Allard
Baucus
Bayh
Bennett

Biden
Bingaman
Borum
Boxer
Brownback
Bunning
Burns
Campbell
Cantwell
Cardin
Chaffee
Chambliss
Clinton
Coats
Collins
Conrad
Corzine
Craig
Craapo
DeWine
Dodd
Domenici
Helms

NOMINATION OF PERCY ANDERSON AND JACK WALTER

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 in 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 960 days. Mr. Anderson was nominated to fill the vacancy left by the elevation of Kim McLean Wardlaw in 1998. I recall that President Clinton nominated Frederic Wuercher to fill this judicial emergency vacancy on May 27, 1999. Mr. Wuercher was one of the lucky judicial nominees 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 ultimately frustrated by never being considered by the Judiciary Committee. Like Allen Snyer 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 with a recommendation that 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, returned to President Clinton without a hearing or any consideration and was one of the scores of nominees on which the Senate did not take action over the 6 1/2 years that preceded the shift in majority.

Nominations 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 of California 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 these nominees. I say to Chief Judge Mar-shall 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.

I commend Senator Feinstein and Senator Boxer for their efforts to get these vacancies filled with qualified nominees.

I recall that in the 6 1/2 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 great deal of delay. Senate Majority Leader dur- ing 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 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 anony-mous hold on the Senate floor calendar over a period of more than 7 months, and was not confirmed until 64 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 used to move hearings forward.

Senator Hatch noted at their hearing that both of these nominees were first nominated in the last year of the Ad-ministration of President George H.W. Bush and did not have hearings before the end of that Senate session in October 2000. Those nominees 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 nominees were not considered for over 10 years, however, would be extraordinarily unfair and wrong. They were not confirmed in 1992, and not re-nominated 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 to January 1997 was at fault. I would not make that criticism of the Senate Republicans of my predecessor as chairman of the Judiciary Com-mittee.

The confirmation of these nominees today demonstrates our commitment to promptly consider qualified, consen-sus nominees. Mr. Walter and Mr. Anderson participated in bipartisan selection processes, and they are the first two nominees who have emerged from the bipartisan Senate judicial nominees committee of 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 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 regard to the nominations of Judges Morrow, Judge Snyder, Judge Phillips, Mr. Wooster 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 Republican majority, and we are considering Republi-can President George W. Bush's nominees at a faster pace in the Demo-cratic-led Senate. The pace at the be-ginning 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 administra-tion amounted to 3.6 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 administra-tion 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 pace much faster than for any of the last three Presidents.

During the preceding 6 1/2 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 when the Senate was controlled by a Republican-controlled and Senator BIDEN chaired the Judiciary Committee. The pace of con-firmations under a Republican majority was markedly slower, especially in 1996, 1997, 1999, and 2000.

During the 6 1/2 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 Demo-cratic leadership in fewer than 10 months, in spite of all of the challenges facing the Nation during this period and all of the obstacles Re-publicans have placed in our path.
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 office and 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 criticizing and belittling every single year simply is no answer other than parsimony. 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 control of the Senate with 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 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 obstructing the 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 since last summer. During the period in which the Republican majority controlled the Senate and in which they delayed reorganization, the period from January 1995 to December 2000, 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, 2001, during the period in which the Republican majority controlled the Senate, there were 38 vacancies on the Courts of Appeals around the country. With this week’s confirmation of Jeffrey Howard, we have reduced the number of 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 the 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 the newfound concern from Republicans about judicial nominations during 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 the circuits and districts 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. It gives the power to the Senate 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 certainly to pack the courts with judges whose views are outside of the mainstream of legal thought. And further divide our nation.

The next time Republican critics are heard to assert that the liberal 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 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, two years after the Senate committee had considered his nomination. He 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.

Percy Anderson received his law degree from the University of California, Los Angeles School of Law in 1975. Percy Anderson served as a former Attorney and Staff Attorney with the San Fernando Valley Neighborhood Legal Services, representing indigent clients in civil matters.

In addition, he has practiced as a trial attorney 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, false claims, and white collar criminal defense work. Mr. Anderson has been a partner with the firm since 1996.

Mr. Anderson has served as a judge pro tem in the Santa Monica Municipal Court for over 5 years. Mr. Walter has served as a judge pro tem in the Santa Monica Municipal Court for over 5 years.

Mr. Anderson and Mr. Walter are the two nominees to come out of California this morning. Mr. Anderson is currently a partner at the firm of Sonnenschein Nath & Rosenthal. He is a partner in the firm's Los Angeles office. He is a partner in the firm's Los Angeles office. He is a partner in the firm's Los Angeles office.

In conclusion, I want to thank Senator Leahy for his expedited hearings and fair handling of these nominations.

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 confirmed by the Republican Senate. Still, as was the case 10 years ago, I have every confidence that John Walter will serve to support the nomination of John Walter to be U.S. District Judge for the Central District of California.
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 provides service 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 per 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, including energy 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 oil and energy, to strengthen the economic self-determination of the Inupiat Eskimos, and to promote national security.

Feinstein amendment No. 3255 (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 non-issuance of a permit 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. 3319) to provide for equal liability treatment of vehicle fuels and fuel additives.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 311

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, safety, 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. 3313 TO AMENDMENT NO. 2917

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 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 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—

"(v) 30 percent of the basis of such property,

"(v) $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.

Mrs. 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 the 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 have some solomnity with some solutions.

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 as much time, but in my brief review of them, they 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 he does.

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 BINGMAN 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 asking for forward movement 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. S311

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 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 manufacturers make wines 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 is wrong. 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 anywhere 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 though no nuclear power companies 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 MTBE. 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 one 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 written 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 do we 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 write the bill and say 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 can have it both ways. One cannot stand 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 included in the amendment 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 a different matter.

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 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.

Mr. DURBIN. 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 support ethanol.

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

Mr. DURBIN. I yield the floor.

Mrs. BOXER. 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 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. As 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 that 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, gasoline, with some Senators argued would 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 suppliers.

Rep. Doug Ose, the Republican chairman of the energy subcommittee of the House Government Reform Committee, released internal memos from ethanol suppliers stating that 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 says.

William Kovacic, the general counsel for the Federal Trade Commission and a witness at Ose’s hearing, yesterday told the full commission could initiate an investigation of the ethanol suppliers. Kovacic said that he could not tell whether the documents 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, 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 proposal defeated, by a 58-to-31 vote, an amendment by Sen. Charles Schumer, D-N.Y., that would have stripped the senators got the prices they wanted.

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 doubtfully trading, 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 SE 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. BOYDEN. 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 that there are valid questions about the impact of ethanol on ground and surface water. The report points out 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. 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 Day-ton—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 series 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. I repeat, the corn people to whom we have spoken really do not like this. 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 they are unhappy with it. We are saying: Local communities, you have local water. And you have some substances that we know are dangerous already. If you use MTBE, we are saying: Local communities, you are on your own. And the Government is not mandating it, but they are saying: Local communities, you are on your own.

Mr. SCHUMER. 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 want to dispute how much. We think a modest estimate is 4 cents to 10 cents, depending on the State. Then we hit you right, hit you left, hit you in the head. And now we are looking at one piece of it. We have $200 million on 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 ignoring the two studies my friend from California Senator FEINSTEIN, is going to send 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 “taxpayer pays,” 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. I say 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 up—and you know some oil company or refiner, or whatever, polluted that soil knowingly, and the MTBEs leaked in, you have a problem. 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.”

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 west coast, or the east 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:

Dear Senator Daschle,

U.S. Senate, Senate Hart Office Building, Washington, DC.

April 16, 2002

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 that would extend the safe use of methy tertiary butyly 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 water 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 to balance the costs 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 high-water contamination.

The problems don't end there. The ethanol provision features language creating a "renewable fuels safe harbor" that gives product liability to ethanol manufacturers. 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 as a participant in 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 the existing 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 Act'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 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 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 Rauker 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 exacerbates the degradation of benzene but also lengths 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 ethanol's contribution, can be 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 the floor. It could be a winner. But we cannot 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 to charge for ethanol. We need to 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 change 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. 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 Daytan'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 you may knows that is not a good thing to do.

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

The PRESIDING OFFICER. The Senator from Nevada, the 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 will 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, 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, the times I have mentioned. I ask unanimous consent that 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 PRESDING 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 would create an 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 damanged 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, 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 provided in this legislation. 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 talking about the Senator from New York to the junior 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 regard 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 opposition of Senator Feinstein because she is misleading in her reading of the record and--
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 this 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 amended 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 us find a 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, clearer drinking water, 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 safe harbor provision in 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 illegal 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 will 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 they 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 subject to 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 requirements for information under section 211(b) of the Clean Air Act, as amended by this act, in the event that the safe harbor provision 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 starch foods such as potatoes, 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 to 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 struck 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
Mr. President, it is such a simple matter 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, we 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 cause.

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 know how many 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 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. Frankly, 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 for every liability from 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 you 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 exactly the action to clean up at Lake Tahoe, an area of our Nation that my colleague and I, Senators Risch 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—well, exactly—the companies which are exactly 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...
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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. 3220

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 3220, 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 reserve 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, rail from the Midwest to the West. If it is transported, unless adequate facilities can be built.

According to the California Energy Commission, the adequacy of logistics for any other State, and for California does not have the ethanol 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 current refineries. 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, 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 the 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 NOx, 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 need 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, will cause 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 California have failed to go this, and I yield the floor.

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 gave a mandate for in the last Clean Air Act.

Someday, 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 spent $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 doing 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 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 it been since you built a refinery in your State calls for the removal of MTBE. That is the way public policy is good for corn farmers, so, you guys, I resent that. I resent the fact that I had the refiners, the ethanol people and the corn growers reversed and said: Forget you, we are not going to use MTBE. Well, now we can get much more. And the ‘much more’ has resulted in a tripling of an additive we do not need.

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.

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. I resent the fact that that 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 the ethanol people and the corn farmers in my office are 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 use MTBE. Well, 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 where the market 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, let us go ahead and take it. Oh, we have a credit trading system. 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.
because it is bad public policy. To mandate States to use something they don’t need, when they can meet clean air standards with reformed 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 prices, the easy way.

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 the question, please?

Mr. REID. I object.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Yes. The Senator from Nevada, 3½ 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 that? 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; there are 61 plants today, plants that are in operation; 14 are under construction—and they claim 82 percent of capacity in production. We can do better. Biodiesel is estimated to provide the capability 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.

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 price 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 new 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.

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 2306 of Division H relating to energy tax incentives)

In Division H, (relating to energy tax incentives), strike section 2306.

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. 1102. 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 biennial period beginning on October 1, 2002.

AMENDMENT NO. 3339, 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 ‘administra-

tor’ means the Administrator of the En-

vironmental Protection Agency.

(2) BASELINE.—The term ‘baseline’ means

the historic greenhouse gas emission levels of an entity, as adjusted upward by the des-

ignated agency to reflect actual reductions

that are verified in accordance with—

(A) regulations promulgated under section

1104(b); and

(B) relevant standards and methods devel-

oped under this title.

(3) DATABASE.—The term ‘database’ means

the National Greenhouse Gas Data-

base established under section 1104.

(4) DESIGNATED AGENCY.—The term ‘des-

ignated agency’ means a department or

agency to which responsibility for a function or program is assigned under the memo-

randum of agreement entered into under sec-

tion 1104(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 installa-

tions 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 ‘green-

house gas’ means—
(A) carbon dioxide;
(B) methane;
(C) nitrous oxide;
(D) hydrofluorocarbons;
(E) perfluorocarbons; and
(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global effect.

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1107(b)(1) or revisions to the regulations) to be appropriate and practicable for coverage under this title.

(8) 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, for a given year, 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 geologic method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1105. 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 Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator to enter into a memorandum of agreement under which those heads of departments and agencies shall—

(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) include 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, reductions, and product use (including the use of fossil fuels and energy-consuming appliances and vehicles).

(b) MEMORANDUM OF AGREEMENT.—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 reduction reports required by section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 3835(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, measurement of atmospheric concentrations of greenhouse gases for the database.

(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—

(A) emissions monitoring, 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; and

(B) regulations promulgated under section 1104(b)(2).

(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 biologic carbon sequestration measurement and verification standards for measuring greenhouse gas emissions 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—

(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 fail to account for 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.

(d) BASELINE IDENTIFICATION AND PROTECTION.—Through regulations promulgated under paragraph (1), the designated agencies shall develop and implement a system that protects—

(A) the provision of unique serial numbers to identify the verified emission reductions made by an entity relative to the baseline of the entity; and

(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 that such Act 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 a 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 to be included in the regulations promulgated under section 1104(c)(1) may be practicable and useful 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—

(1) 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 or by the entity under—

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

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

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of 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;

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

(VII) carbon capture and storage;

(VIII) methane recovery;

(X) greenhouse gas offset investment; and

(XII) any other activity for achieving greenhouse gas reductions as recognized by 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 not apply in any case in which the designated agency determines that publishing or otherwise making available information described in that paragraph poses a risk to national security.

(B) DATA INFRASTRUCTURE.—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.

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

(5) FAILURE TO SUBMIT REPORT.—An entity that is required to submit a report under section 1108(b) that 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 greenhouse gas emissions;

(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 public and private 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 report greenhouse gas emissions, the following shall be made available—

(i) to take into account that information; and

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

(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 section 1108(b) that the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) obtain independent third-party verification of the emissions and emission reductions reported to the database during the year covered by the report;

(B) provides entity-by-entity and sector-by-sector analysis of the emissions and emission reduction reported; and

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

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

(C) DATA INFRASTRUCTURE.—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.

(8) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, an entity that is required to submit a report under section 1108(b) that the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) obtain independent third-party verification of the emissions and emission reductions reported to the database during the year covered by the report;

(B) provides entity-by-entity and sector-by-sector analysis of the emissions and emission reductions reported; and

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

(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 account a broad range of issues involved in establishing an effective database, including—

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

(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) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon capture technologies, including—
(i) soil carbon sequestration practices; and
(ii) forest preservation and reforestation activities that adequately address the issues of permanence, verifiability, and reversibility;
(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator of the Bureau of the Census, and the Secretary of Energy determine to be appropriate; and
(E) other factors that, as determined by the designated agencies, will allow entities to address 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) periodically report to the Congress a report that describes any recommendations for improvements to the title.

(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, 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) recommends improvements to the database under 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 improvements to those methods and standards; and
(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential in section 1102(e)(6).

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)(1) and nonparticipants 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 Secretary of Energy, the Administrator of the Environmental Protection Agency, or the Secretary of the Treasury, determines that the reporting threshold as described in section 1105(c)(1) 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 Administrator 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 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.

SEC. 1112. AMENDMENT NO. 316, 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 facilitate 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; and
(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 the participation of such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) 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

(5) 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 for greenhouse gases 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) any anthropogenic gaseous constituent of the atmosphere that absorbs and re-emits infrared radiation and influences climate;

(B) methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone that absorbs and re-emits infrared radiation and influences climate; and

(6) “Secretary” means the Secretary of the Energy.

(7) “Administrator” means the Administrator of the Energy Information Administration;

(8) “Intergovernment Task Force” means the Intergovernment Task Force established under title X of this Act.

SEC. 1104. ESTABLISHMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the President shall, in consultation with the Intergovernment 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 facilities or operations within the United States, pursuant to the guidelines issued under this title.

(c) Participation.—Any person or entity engaged in activities or operations within the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and, where applicable, its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of greenhouse gas emissions reductions activities 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 Intergency Task Force, and, as needed, revise them in the same manner as the guidelines developed by the Secretary pursuant to this section.

(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. Following such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it or finalize it without substantial changes. 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 reductions.

SEC. 1107. MEASUREMENT AND VERIFICATION.

(a) In General.—The Secretary of Commerce, through the National Institute of Standards and Technology, 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 use 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 sequestration; and

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

(2) measurement and verification factors as the panel determines to be appropriate.

(b) Measurement and Verification of Actions Taken to Reduce, Avoid or Sequester Greenhouse Gas Emissions.

(1) The Secretary shall—

(A) establish and implement a compliance program to ensure that persons or entities participating in the registry report accurately and completely all greenhouse gas emissions and emissions reductions.

(B) in furtherance of the purposes of the title, such registry shall be directed by the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under section 3109 of title 5, United States Code, for reporting of voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential incentives among emissions and reductions of greenhouse gases in public and private programs, and the inclusion of benchmark and de minimis thresholds in the guidelines established pursuant to this title;

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

(5) procedures for the use of an independent third-party or other effective verification process for reporting on reductions and associated factors.

(c) Adoption of Guidelines.—Any guidelines issued by the Secretary pursuant to this title, shall be adopted for use in implementing this title, and, as needed, revised in the same manner as the guidelines developed by the Secretary pursuant to this section.

(d) Review and Revision.—The Secretary, through the Intergency Task Force, shall review and, where appropriate, revise the guidelines, and, as needed, revise them in the same manner as for public written comments to the Secretary of Commerce, under 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 adopt such guidelines and, as needed, revise them in the same manner as provided for in this section.

(f) Review and Revision.—The Secretary, through the Intergency Task Force, shall review and, where appropriate, revise 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 Secretary, in accordance with the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall certify that 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 (successors thereto) which, inter alia—

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

(B) may 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. Following such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it or finalize it without substantial changes. Such agreement shall be retained in the national registry and be available to the public.
the use of carbon sequestration and carbon capture technologies, including—

(A) organic soil carbon sequestration practices; and

(B) forest preservation and reforestation activities which adequately address the issues of permanence, leachage, and verification; and

(4) any 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 comment for a period of at least 30 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 Administrator, develop standards for certifying 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 them- selves 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 or entities engaged in trading 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 in 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) 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. 13258) as the President believes necessary to better carry out the purposes of this title.

SEC. 1110. REVIEW OF PARTICIPATION.

(a) 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 reported emissions of greenhouse gases recorded in the registry for the calendar years 1998 through 2002 represent 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) ANNUAL 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—

(i) all persons or entities, regardless of their participation in the registry, shall submit reports under this title, is required to report greenhouse gas emissions under this section, enter into a contract with a designated agency to verify the quantity of greenhouse gas emissions and provide 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 greenhouse gas emissions reported by such person or entity, expressed in terms of mass and in terms of quantity of total carbon dioxide equivalent; and

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

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

(A) direct emissions from statutory sources; and

(B) indirect emissions from imported electricity, heat, and fuels.

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. 7. SALES 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.

AMENDMENT NO. 3355
(Purpose: To amend the Internal Revenue Code of 1986 to designate certain electric power plants for purposes of the Energy Tax Act of 1992 (Public Law 102-486). At the appropriate place, strike 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)(2)(A) (defining energy property) is amended by striking clause (1) and in lieu thereof striking paragraphs (4) and (5) as paragraphs (6) and (7), 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.—A qualified fuel cell property means a fuel cell power plant that—

(1) is qualified fuel cell property for purposes of section 48 of the Internal Revenue Code of 1986; and

(2) is located in the United States;
“(I) generates at least 1 kilowatt of electricity using an electrochemical process, and
“(II) has an electricity-only generation efficiency greater than 30 percent.”

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

“(b) EXTENSION FOR CERTAIN FUEL PRODUCED IN DIVISIONS.—In Division H, on page 202, paragraph (6) is amended by specifying in the table of contents under which the vehicle described in paragraph (2) which is manufactured, produced, and sold before January 1, 2003, is in order to be entered for consumption into the customs territory of the United States, and the term ‘fuel cell power plant’ means a fuel cell power plant which has an electricity-only generation efficiency greater than 26 percent at International Standard Organization conditions.”

4. Amendment No. 3258 was agreed to en bloc, and that the motions to reconsider be laid aside.

5. The amendments (Nos. 3082, 3130, 3131, 3132, 3133, 3134, 3135, 3136, and 3139) are in order.

6. As to the field of inquiry, the motion to strike the provision authorizing loan guarantees for an Alaska natural gas transportation project is in order.

7. The motion to strike the provision allowing for the financing of the portion of a project defined in section 216 of the Energy Policy Act of 2005 to be financed using the proceeds of the sale of securities is in order.

8. As to the field of inquiry, the motion to insert the following:

“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 an eligible taxpayer (as defined in paragraph (2)) which is used in the trade or business of income (and is licensed and insured for such use)
“(b) 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—
“(I) 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 (as the case may be), or
“(II) a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions (as the case may be).”
(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) EFFECTIVE DATE.—This section shall not apply with respect to any calendar year after 2002.

(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:

‘‘(23) the commercial power takeoff vehicles credit under section 45K.’’.

(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. 331 (Purpose: To further encourage development of hydrogen reforming infrastructure)

In Division H, on page 50, strike lines 23 and 24, and insert the following:

‘‘(1) TERMINATION.—This section shall not apply to any property placed in service—

‘‘(A) in the case of property relating to hydrogen, after December 31, 2011; and

‘‘(B) in the case of any other property, after December 31, 2016.’’.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURE.—Section 179A(d) (defining qualified clean-fuel vehicle reforming 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 ‘‘storage, or dispensing for storage or dispensing’’ for ‘‘storage and dispensing’’ wherever it appears.’’

AMENDMENT NO. 338 (Purpose: To amend the Internal Revenue Code of 1986 to provide for nonrecognition of gain 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 26, after line 21, add the following:

SEC. 338. 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 applies the rule of section 198(b)(2) (relating to involuntary conversion) to a qualified disposition, the following shall apply:

‘‘(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 for at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide—

‘‘(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 (1) (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 a voluntary 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) PAYMENT 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 of Energy.

‘‘(D) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property described in 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).

‘‘(E) 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.

‘‘(F) 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 recognizing 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, as if sold and not sold, and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

‘‘(G) 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) EXPENSING OF DAIRY PROPERTY RECLAMATION EXPENSES.—

‘‘(1) IN GENERAL.—Part VI of chapter 1 of title 26 (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 EXPENSES.

‘‘(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure (as defined under section 199(b)(2)) as an expense which is not chargeable to capital account.

‘‘(b) QUALIFIED RECLAMATION EXPENDITURE.—

‘‘(1) IN GENERAL.—For purposes of this subsection, the term ‘qualified reclamation expenditure’ means amounts otherwise chargeable to capital account which are incurred by a taxpayer in connection with expenditures paid or incurred in unimproved land.

‘‘(2) SPECIAL RULES 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 sections 190(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. 339 (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 rankine, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

AMENDMENT NO. 339 (Purpose: To modify the credit for the production of fuel from conventional 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, delete the following:
SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.
(a) In General.—Section 45(c)(1) (defining qualified property produced of electricity), 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 a colon and by adding at the end the following new subparagraph:

“(H) small irrigation power.”

(b) By subsection 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 the date of the enactment of this subpart and paragraph (F), by striking the period at the end of subparagraph (G) and inserting a colon and by adding at the end the following new subparagraph:

“(H) small irrigation power.”

(c) by 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 the date of the enactment of this subpart and paragraph (F), by striking the period at the end of subparagraph (G) and inserting a colon and by adding at the end the following new subparagraph:

“(H) small irrigation power.”

(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 subparagraph (A) 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.

SEC. 1906. INCREASING AMOUNTS OF BIODIESEL V.
(Purpose: To increase the amounts of biodiesel V that qualify for the biodiesel and renewable diesel credits.)
In Division H, beginning on page 91, line 15, strike all through page 95, line 17, and insert the following:

“(iii) $250 for each central air conditioner, (iv) $75 for each natural gas water heater, and (v) $250 for each geothermal heat pump.

(2) SAFETY CERTIFICATIONS.—No credit shall be allowed for 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 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 Federal Energy Regulatory Commission, as appropriate),

(ii) in the case of the energy efficiency ratio (EER), are 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, the credit attributable to the amount 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 ‘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 subparagraph (A) 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.

SEC. 1907. BIODIESEL V CREDIT.
(Purpose: To provide the biodiesel and renewable diesel credits.)
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 FUEL.—

(1) IN GENERAL.—Subpart D of part IV of chapter 1 (relating to business-related biodiesel) of this Act, is amended by adding 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 MINE R TUR E.—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 biodiesel NV in such mixture.

“(2) BIODIESEL MIXTURE.—

“(A) IN GENERAL.—The term ‘qualified biodiesel mixture’ means a mixture of diesel and biodiesel V 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.

“(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this subsection with respect to off-farm production of a qualified biodiesel mixture.

“(D) COORDINATION WITH 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 40A(n) or section 40B(n).

“(E) 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 compression-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crame, rape seeds, 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 compression-ignition (diesel) engines.

“(F) REGULATORY ACTIONS.—The term ‘biodiesel V’ and ‘biodiesel NV’ shall only include a biodiesel which meets—
 Act, is amended by inserting under section 40B(a).

paragraph:

and by adding at the end the following new subsection:

(1) BIODIESEL V MIXTURE.—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) Section 39(d), as amended by this Act,

(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT.—Section 38(b), as amended by this Act, is amended by inserting 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.—Section 38(b), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(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—

(ii) 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 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 subsection (a) applies are used in such operations under which such facility is approved by that Commission as consistent with Texas law regarding an independent transmission organization.

(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 (by reason of credits to the Highway Trust Fund by reason of the amendments made by this section).

"(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.)"
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. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—60

Baucus
Bayh
Bond
Brownback
Brown
Burns
Byrd
Campbell
Carnahan
Chafee
Cleland
Cooper
Craig

Dorgan
Durbin
Edwards
Feingold
Frist
Graham
Harkin
Hatch
Inhofe
Jackson
Jeffords
Johnson
Kohl
Landrieu

YEAS—39

Allard
Allen
Baucus
Bingaman
Boxer
Cantwell
Carper
Clinton
Collins
Corzine
Dayton
Dodd
Durbin
Ensign
Feingold
McCain
Mikulski

Yeakel
NAYS—42

Akaka
Biden
Bingaman
Boxer
Cantwell
Carper
Clinton
Collins
Corzine
Dayton
Dodd
Durbin
Ensign
Feingold
McCain
Mikulski

Voinovich
Nelson (FL)
Reed
Rockefeller
Sarbanes
Schaumer
Specter
Torricelli
Wyden

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. 86, I voted no. It was my intention to vote yes. 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 DURBIN be granted 10 minutes of that 20 in opposition; Carpenter amendment No. 3198, with 40 minutes equally divided; amendment No. 3326, the Murray amendment, 10 minutes equally divided; Kyl amendments Nos. 3322 and 3323, 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 President has asked these people to take less time than they are entitled 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 and 2 minutes against each amendment. Of course, more 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. CRAIG. If I could inquire, does that include, then, the amendment I’ve 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 authorities.

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 voice 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. 207

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 amendment 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. 3. 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 Work- er Assistance Act of 2002, is amended by—

(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 (i) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

‘‘(i) IN GENERAL.—Subsection (d) of section 179 of the Internal Revenue Code of 1986 (relating to expenses for property placed in service), is amended by—

(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 amendments. 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 the amendment is going to be approved 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 state tax credit to help defray the cost of establishing a 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 is one that will give us an opportunity to use wind power 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. 3345

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 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 7,600 workers employed in facilities that manufacture components for 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, there will be a numeric 13 SEER unit is about $100. They say: A 13 SEER standard will do more to stimulate encouraging 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-Cochrane-Grassley-Lincoln amendment.

Mr. DORGAN. How much time is available?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. How much time is available?

The PRESIDING OFFICER. The Senator from North Dakota.

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 products, and imposes a new energy efficiency standard. 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 manufacturer of air-conditioners in the country, that 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 limitlessness, 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: A significantly strengthened standard to SEER 13 would have enormous 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.

This 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 manufacturer 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 country. 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 Texas consumed more air-conditioning than on space heating.

If the 13 SEER standard is implemented, for example, Texas electric
compares 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 higher 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 Aason, 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 the resolution 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 makes good sense as part of an energy policy.

Mr. President, how much time is remaining?

Mr. DORGAN. I reserve the remainder of my time.

Mr. MURKOWSKI. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 2 minutes 20 seconds.

Mr. DORGAN. I reserve the remainder of my time.

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 controls the time. There remain 5 minutes.

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-conditioning 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 energy bill, 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 for far too many consumers.

To give some idea, the nonpartisan Energy Information 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 the rules that were available to the 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 middle of the 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 the 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 tremendous 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 have 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 Energy Information Administration estimates that the 12 SEER standard saves consumers money; while the 13 SEER standard is a net cost.

This is 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.

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. 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 13 SEER is as much as $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.

And 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. In my opinion, 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.

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 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 new 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 the Bush 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.

And 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 of 11 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 Nevada and 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 the highest—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 tight—during periods of peak power—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 amendment contains and as originally applicable by the Department of Energy in January 2001—the result of a comprehensive rulemaking effort and multiple years of analysis 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—by far the most new power plants. It would, every year, add 2.5 million metric tons of carbon emissions into our air;
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 opposition?

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 it is a scenario. We believe the air-conditioners sold in the country ought to meet this SEER standard. Lennox, the manufacturer which is one of the Senator from Iowa referred to today, has 19 models of air-conditioners, and 130 of those models already meet our standard.

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.

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 our 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—the 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 standard is 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 I
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,


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 12 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 heat pumps. DOE proposes to withdraw previously issued 12 SEER standard and replace it with a 12 SEER standard.

EPA believes that the more stringent standard will be 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 million homes would be creating jobs.

A 13 SEER standard will also do 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 (NOx) 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 emissions 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, thus 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, EPA anticipates that 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.
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, manufacturers can produce 13 SEER units with only minor modifications to their facilities. DOE already estimated that 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, the manufacturers of these units, while likely requiring more redesign of equipment, may actually increase efficiencies. This increase would eliminate the need to meet 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 conditioning market (as cited on page 6-40), also offers efficient R-410A units. ARI lists over 1000 models manufactured by Carrier that use R-410A, ranging in cooling capacity from 23,200 Btu/hr (less than 2 tons) to 60,000 Btu/hr (5 tons). Of these, only a few dozen have a SEER of less than 13, and all have a SEER of at least 12.5. 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 can choose to invest in increasing manufacturing capacity of these R-410A lines by the 2006 DOE deadline, thus meeting a 13 SEER standard with little or no additional investment. 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 plans to begin of August 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. These 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 (13.0-14.0 SEER) are 13 SEER rebates, while 9% 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 the installation of 13.0 SEER 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 2001. Rebates are available at 13 SEER or higher, with the market share for existing homes even higher at 22%.

Program plans for 2002 in Texas and California geared toward equipment at 13 SEER and above. Reliable 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) have announced that all large multi-family tenant-owned complexes (San Diego Gas and Electric, Southern California Gas, Southern California Edison, and Pacific Gas and Electric), serving over 30,000 units, are planning to purchase new units. Programs are planned to assure California residents receive energy efficient equipment, measures, and practices that provide maximum benefit for large and small manufacturers. Given the fact that the units have equivalent technologies, at Goodman we run all of our equipment through the same facilities and use the same energy-efficient practices and most other manufacturers currently produce the 13 SEER air conditioner, moving to the higher SEER will simply mean producing a higher SEER unit, it will also mandate new 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 an extremely high 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 technology, including ductwork during installation of the unit. Once we acknowledge that there will be a standard that will likely require some structural modifications, we must compare the 12 SEER unit to the 13 SEER unit. The difference between our 13 SEER and 12 SEER external equipment is only 1-1/2 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 significantly more 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 than 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 increased cost, between a 12 SEER and a 13 SEER unit.

Moreover, history has shown us time and time again that when energy is implemented, the market will drive prices down and make 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 will 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 choose to protect their 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.

As the Administration has been supportive of energy efficiency and conservation measures, Goodman too supports the use of federal incentive programs. Specifi-}

CARPER is willing to make.

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. That is a valid point.

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 short of a 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 will fuel our cars with 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 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 a Senator 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 amendment offered earlier by the Senator from Georgia, Mr. Miler, with respect to pickup trucks; that remains where it is.

But where you have a broad policy change, like the one we are considering, it is important that we 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 for the future, can require so much savings from CAFE changes, so much savings from alternative fuels, including biodiesel, soy diesel, 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, 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 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 soy diesel.

For those who come from States where there is a lot of corn, there is the notion that the Secretary of Transportation can decide 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.

Mr. SPECTER. Thank you.

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 rate of 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 Middle East. 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 change our policy in the Middle East.

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 prepared to move to the right of 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 Middle East.

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 oil. And many 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 micro manage 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 in our use of oil, 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 1 additional 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 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?

The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mrs. Carnahan). The Senator has used 5 minutes.

Mr. LEVIN. Madam President, I yield myself 2 additional minutes.

Mr. SPECTER. Madam President, I yield 2 additional minutes.

Mr. LEVIN. Madam President, I yield myself 2 additional minutes.

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 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 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, you will have an expedited process 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 different 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 prejudices 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 Department 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 that goal.

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 Wisconsin, Mr. MILLER, which I opposed. The Miller amendment weakens current law and exempts 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 passed. 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 passes, I think 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 is more consistent with the process we have put together through 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 to 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 from the Middle East that 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 become 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 our dependence.

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 we 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. It would impose higher 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 fuel efficiency standards. Unfortunately, it is a man-made number which is 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.
autokcers—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 avoid.

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 to the Senator from Connecticut for 3 minutes.

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, which means 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 point is 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 his 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 on foreign oil and the cost of 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.”

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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 have assumed one-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 is 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, but 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.

Mr. SPECTER. Madam President, I yield the floor.

You should also examine whether the anticompetitive conduct of the oil cartel is being effectuated by private companies who are subject to the enforcement of U.S. antitrust laws (for example, former state-owned companies which have 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 OFEC members.

A suit in the International Court of Justice at the Hague based upon “the general principles of law recognized by civilized nations” which includes, obviously, the 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.

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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 other nations through its anticompetitive activity. Consideration of such legal action could provide an inducement to OPEC and other oil-producing countries to raise production to head off such suits.

We hope that you will seriously consider judicial action to put an end to such behavior.

Arlen Specter, Herb Kohl, Charles Schumer, Nick Rahall, Strom Thurmond, Joe Biden


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 need to act immediately 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 contrary to U.S. antitrust law, and which should be condemned under international law.

After some 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 upon the general principles of law recognized by civilized nations.

A further consideration is the jurisdiction of international courts in this context, which should be condemned under international law that price fixing by cartels violates such international norms.

The court, acting on April 25, 1981, has recognized by civilized 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. On April 25, 1981, the U.N. Organization for Economic Cooperation and Development issued an official “Recommenda- tion” 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 communiqué 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 communiqué expresses the intention of these countries to ‘cooperate with one another . . . to maximize the efficacy and efficiency of the enforcement of each country’s laws.’ One of the countries participating in this communique, Venezuela, is a member of OPEC.

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 “government activity” and therefore unable to be sued in their own courts.
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 adherence to and support for fundamental international principles and norms by the world community. For example, we have seen the establishment of the International Criminal Tribunal for Rwanda in 1994, and the International Criminal Tribunal for the former Yugoslavia in 1993. Each of those tribunals 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 for the first time against a 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 for two 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 illegitimately of price fixing by cartels. For example, on April 27, 1998, the Organization for Economic Cooperation and Development (OECD) 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.”

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The behavior of OPEC and other oil-producing nations in restraint of trade violates U.S. and the basic international norms, and is injuring the United States and its citizens in a very real way.

We hope that you will seriously consider judicial review of the expropriation of OPEC oil, which has trapped the United States in a dependence on foreign oil.

Mr. SPECTER. The Federal lawsuit, Prewitt v. OPEC, establishes an anti-trust 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 Patriot-News 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 is 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, this willingness and alternative fuel development are tied together in the energy package that remains bottled up in the U.S. Senate, where drilling is one of the 80 Senate 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 coal-to-oil plant in Schuylkill County to convert coal waste into diesel fuel is on hold. John W. Rich, Jr., scion of a family that makes fortunes in cranking 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 $25 million 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 needed. On the other hand, there are other ways to stop the sea of crude. 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 cost of bringing 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. In a recent interview, the 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.

In an unusual move, 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 is 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 should Mr. Bush make a decision to put pressure on Saudi Arabia to allow the peace settlement on Israel and the Palestinians to proceed. But the Saudi delegation also brought a strong sense of the alarm and crisis that has been heard in Arab capitals.

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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.

Western analysts see the prince as a blunt Bedouin leader whose initiative is regarded by many Arabs as a gesture worthy of the late President Anwar el-Sadat. Mr. Sadat 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 but no connection for 30 years before a final status agreement.

Saudi officials assert that American presidents have always been aware of Saudi concerns over Iran and Iraq. But incremental steps are no longer possible. What the United States in the late 1980s called a “new relationship” with Iran is now a one-off proposition with negative impacts on jobs, safety and the health of our domestic economy.

On March 13, the Senate overwhelmingly passed a bipartisan amendment I introduced 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 Levin amendment replaces a Kerry 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. Why? The Carper-Specter amendment would 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 with the details of the debate in which I spoke last month requiring NHTSA to include it in the regulatory process to set new CAFE standards. 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 proven ability 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 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 new 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 truck fleet 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 in its rulemakings. Indeed, DOT would regard the careful balancing of criteria with the mandates of the Bond-Levin amendment.

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 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 evidence, 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 analysis was 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 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 back 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 would be 900 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 fiat. We are saying 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 slag 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 it. Let's develop it. Let's do it. That will be available to 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 would be 900 pounds less. What happens? Thousands and thousands of people have been killed in unsafe cars.

There is technology. There will be innovation. But if we are not careful, it will not happen. We need not compromise safety, but we must not compromise the economy. 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 all 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?
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 to promote and develop alternative 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 omission 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 word 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 also should consider how it can reduce oil consumption through alternative fuels.

Alternative fuels could be biodiesel or some liquid fuel that 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 of the Senate.

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, for example, 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 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 greater 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 today 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.

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 accept 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 amendment 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 both 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 Senate 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 Senate from Nevada.

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 impediment 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 change the 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, FORDS, REESE, HAYWOOD, and JERFORDS. 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 have been 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 addressed earlier 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 compromise from the original texts of H.R. 1459 and S. 972.

The first provision addresses the transmission tax problem that has occurred as a result of the decision 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, or RTO. However, many industries, and as such, reflect a delicate, equitable balancing of interests.

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 conformance 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 conformance 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 owners.

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-related 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 that are used to decommission plants when they are retired. Congress added section 468A to the tax code in 1981 to permit owners of nuclear plants to deduct a portion of the contributions made to these external trust 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.

The 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, 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 parties must reimburse a utility for construction costs plus a Federal tax of over 30 percent. The proposed solution to the reimbursement of these costs as non-taxable, 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 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 project-specific debt 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 utility’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 finally 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 generation capability 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 tax-exempt 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 vend transmission to 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 also 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. There being no need for new 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.

In addition, the bill would 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. There being no need for new 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 revenue neutral, and does not result in taxable income attributable to open access.”

The truth is, the current private use restrictions 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:

- **Tax Exempt Bonds**: 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.

- **Transmission Facilities**: 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 generation capability 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 tax-exempt 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 vend transmission to 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.

- **Transmission Requirements**: There are also 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. There being no need for new 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.

- **Future Energy Act of 2001**: The Future Energy Act of 2001 (H.R. 2511) was introduced in the House on April 25, 2002. The bill, as approved by the Committee on Ways and Means, was marked up by the Finance Committee on June 25, 2002. The final version of H.R. 4, as approved by the House on March 8, 2002, was marked up by the Senate Finance Committee on April 25, 2002. The Senate passed the bill on May 11, 2002, and it was signed into law on June 28, 2002, as Public Law 107-115.

- **TREASURY DEPARTMENT**: The Treasury Department has examined the tax provisions related to the proposed mark-up of the tax title of 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 questions at the mark-up with respect to two narrower items.

- **MARK-UP ANALYSIS**: The first item concerns our discussion during the mark-up about an allocation proposal related to the pending energy bill. The proposal 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. The proposal would permit issuers to use reasonable methods to allocate various funding sources among their assets.

- **GOVERNMENT-MANAGED BONDS**: 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 regulations 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 this issue. 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 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 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 federal agency rules and regulations. Thank you for your attention to this matter.

Sincerely,

JON KYL
U.S. Senator.

DEPARTMENT OF THE TREASURY

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 of 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 objectives 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 a number of substantive and procedural issues 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 believe the 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, this 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 alternative fuel 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 $4,000 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 taxpayer buying a vehicle of this type 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.

We had a law like this 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 has since spiraled to a dizzying $483 million. . . . The state budget has been built on the assumption that only about 300 people would buy these cars and trucks and apply for the generous tax credits. . . .

Just 12 days after it was implemented, 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, Oct. 30, 2000)

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There has been no environmental study of the alternative-fuel program by an agency just as no one ever completed an inclusive cost analysis of the legislation. (AZ Republic, Oct. 30, 2000)

"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 and pay for it by the state, and never use an ounce of the cleaner burning fuel system." (AZ Daily Star, Editorial, Oct. 31, 2000)

Just 12 days after it was implemented, the state's alternative-fuels rebate program has already blown its worst-case 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 problem." (AZ Daily Star, Oct. 30, 2000)

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 and pay for it by the state, and never use an ounce of the cleaner burning fuel system." (AZ Daily Star, Editorial, Oct. 31, 2000)

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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 this rebates program, the entire cost of converting a vehicle to propane or compressed natural gas would be paid by the state, along with 20 percent of the purchase price. 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 $5,600—30 percent of the total vehicle cost of $32,000.” (AZ Repub, Nov 2, 2000).

"It sounds 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 $600,000 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 what the ultimate costs were going to be, and the experience with the program is that it was more difficult to remove the subsidies short of a court decision.” (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 proponents 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. Then the committee report language has 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 to be done on 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-fueled 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 with 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. BAUER. As President, on the Agriculture Committee, everyone would agree, this is to give a stimulus, a boost, to alternative fuels, alternative fuel vehicles, and 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, we had attempted what we call a two or three year program. We had a couple of years 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 work ourselves free of 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 concern 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
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, Collin Peterson, Gordon Smith, Craig, 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 dependence on foreign oil.

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 be designed in conjunction 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 adoption of alternative fuels and advanced technology 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 cleaner air 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 lower our dependence on foreign oil and to cleaner, which I might add come at a very reasonable price 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 unfounded concern for our current energy dilemma.

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 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 aggregate 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 a long way as far as it is concerned 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 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 specifically 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.

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 AWBA 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 had wind energy production tax credit if 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 multimillion-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:

- Greatly reduced dependency on fossil fuels, which are often subject to rapid price fluctuations and supply problems.
- This is a significant issue around the world especially in 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 production tax credit (PTC), which was signed into law March 9, but from a series of announcements by utility, 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’s 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-term growth.

Among recent industry developments, AWEA said, 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. Prior to this, AEP-owned Pepco in Maryland spent $260 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’s 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 farm, jointly-owned Nereco oil refinery near Rotterdam in The Netherlands. Bob Dudley, BP’s group vice president, Gas and Power and Renewables, said, “This is a new and exciting opportunity in line with BP’s strategy to add value to our business, lower emissions, and demonstrate our commitment to clean energy.” This project is an excellent opportunity, commented Kees Krouwel, president of ChevronTexaco 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 utility based in New Orleans, La., purchased a majority interest in the 89-MW Top of Iowa wind farm from Houston, Tex.-based Zilkha Renewable Energy and its partner, Midwest Renewable Energy Corp., for $19.5 million. Dean Gosselin, FPL Energy’s Global Networks Group, said, “Top of Iowa is the first in a series of projects that we have announced in Iowa that exemplify our expansion activity in 2002 and 2003, which will support the planned expansion of wind-driven electricity generation with Vestas Wind Systems A/S of Denmark for delivery of approximately 175 wind turbines and an option for an additional 650 turbines.”
- **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 650-kilowatt turbines will begin in 2002 and will support the planned expansion of wind-driven electricity generation projects underway at Stateline, a 100-MW wind farm in New Mexico.

“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 megawatts of wind power to our portfolio by the end of next year.”

FPL Energy is the largest generator of electricity from wind turbines in the United States. It currently owns and operates wind farms in eight states with more than 1,400 megawatts of capacity.

- **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 wind energy on behalf of other utilities in the region, 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 major growth market for wind in the Northwest.”

Approximately 80 percent of FPL Energy’s electric generation is fueled by renewable...
sures 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 the operating wind project. 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 by which we can site, build 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 700 MW of wind-power-generating facilities, approximately half of what was built in the United States.

“A large percentage of our current wind facilities are 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 $6 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 FiberNet, LLC is a leading provider of fiber-optic networks in Florida. Additional information is available on the Internet at www.fpigroup.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. Mr. President, 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 will be the unanimous consent agreement is Graham amendment No. 3370.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask unanimous consent the 15 million 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 the amendment in full as follows:

The Senator from Nevada (Mr. Reid), for Mr. Kyl, 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. 4. 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 paragraph (G), by adding the period at the end of subparagraph (G), and by adding 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 of section 45(c)(3) 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.—

‘‘(ii) 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 section 45(b)(5) shall be treated as beginning no earlier than the date of the enactment of this subpar

(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 residue from the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.’’

Mr. NICKLES. Madam President, 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.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

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

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 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 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, 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.

The President of the United States outlined very clearly in his State of the Union 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. These three priorities were 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 economic security, or 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 energy incentives. 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 2388.

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 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 in the last 10 years 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 broader 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 say I think 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 that 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 thank 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 do so. 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.
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, pre-judge 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, and 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 proceed 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—yes 57, nays 42, as follows:

[Rollcall Vote No. 90 Leg.]  

**YEAS—57**

Allard, Dorgan, Lincoln

Allen, Ensign, Lott

Baucus, Enzi, McConnell

Bayh, Feinstein, Mikulski

Bennett, Fitzgerald, Miller

Bond, Frist, Markwarth

Breaux, Gramm, Nelson (NE)

Brownback, Grassley, Nickles

Bunning, Reid, Roberts

Burns, Hatch, Santorum

Byrd, Hutchinson, Sessions

Campbell, Humphrey, Shaheen

Carnahan, Inhofe, Smith (NH)

Cochran, Johnson, Stabenow

Cruz, Kohl, Stevens

Dayton, Kyi, Thummler

DeWine, Landrieu, Voynovich

Domenici, Levin, Warner

**NAYS—42**

Akaka, Durbin, Murray

Biden, Edwards, Nelson (FL)

Bingaman, Feinstein, Reed

Boxer, Graham, Reid

Cantwell, Gregg, Rockefeller

Carper,arkin, Sarbanes

Chafee, Hollings, Schumacher

Cleland, Inouye, Smith (RI)

Clinton, Jeffords, Snook

Collins, Kerry, Specter

Conrad, Leahy, Thompson

Corzine, Lugar, {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 that the Senator from Arizona’s amendment would strike will do more toward that 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, Corzine, Gordon Smith, Cleapo, 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 creates 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, our quality of 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, there are basic obstacles standing in the way of a broad shift toward their adoption. These are the higher cost of the vehicles, the higher cost of alternative
April 25, 2002

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 oil or 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. BREAU. 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.

Mr. 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.

Senator from North Carolina (Mr. HELMS) is necessarily absent.

The result was announced—yeas 26, as follows:

- Allard
- Allen
- Baucus
- Bayh
- Bennett
- Biden
- Bingaman
- Bond
- Breaux
- Brownback
- Corzine
- Collins
- Clinton
- Cleland
- Cochran
- Conrad
- Craig
- Crapo
- Daschle
- DeWine
- Domenici
- NAYS—26

All time has expired.

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, 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. 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. The Senator from Florida. 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 conference committees on the part of the Senate; provided further, S. 517 be returned to the Senate; and that the Senate Committee on Finance on the bill change its title to read as follows: 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:

- Akaka
- Boxer
- Cantwell
- Feingold
- Risch
- Murkowski
- Reid
- Nelson (NE)
- Nickles
- Roberta
- Rockefeller
- Santorum
- Schumer
- Sessions
- Shelby
- Smith (NV)
- Snowe
- Speier
- Thomas
- Voinovich
- Santorum
- Sessions
- Shelby
- Smith (NC)
- Smith (OR)
- Snowe
- Speier
- Santorum
- Sessions
- Shelby
- Smith (NV)
- Snowe
- Speier
- Santorum
- Sessions
- Shelby
- Smith (NC)
- Smith (OR)
- Snowe
- Speier

NAYS—29

All time has expired.

The motion was agreed to.

Mr. REID. Mr. President, this should be the last amendment prior to final passage.

The question is on agreeing to the substitute amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield my time to the Senator from Wisconsin, Mr. FEINGOLD.
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 gas emissions 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, industry will have an opportunity for their efforts to be verified 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 prescribed. 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 in this amendment that should be removed. Greater baseline protection needs to be provided to ensure entities participating gain the rightful recognition of actions taken.

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 reporting 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 von Voinovich and I offered an amendment on April 16, 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 a 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 I

April 18, 2002.

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 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 complies 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 meaningful incentives to participate without harming the economy, the whole while continuing 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 would all 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 complex and a timetable, we are hopeful that 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,

[Name]

[Affiliation]

[Address]

[Date]


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 redesignating paragraph (II) as paragraph (I), by inserting before such paragraph the following new paragraph:

"(II) $200 for each kilowatt of capacity of a microturbine power plant with an electricity-only generation efficiency greater than 30 percent."

(b) Qualified Fuel Cell Property; Qualified Microturbine Property.—Subparagraph (B) of section 48(a)(1) is amended by inserting before such subparagraph the following new subparagraph:

"(II) includes all secondary components of such property, including (A) fuel processing equipment, and (B) recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and"
The amendments made by this subsection shall apply to property placed in service after December 31, 2001, and before January 1, 2003.

AMENDMENT NO. 339

(Purpose: To amend the Internal Revenue Code to exempt small seaplanes from ticket taxes.)

At the appropriate place insert the following:

SEC. 2. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) In General.—Clause (ii) of section 4231e(1)(A) (defining rural airport) is amended by striking the period at the end of subclause (I) 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. 336

(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. 3. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEA PLANES.

(a) The taxes imposed by sections 4291 and 4292 shall not apply to a flight by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) Effective Date.—The amendments made by this section shall apply to calendar years beginning after 2002.

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(b) Effective Date.—The amendments made by this section shall apply to calendar years beginning after 2002.
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 electric power transmission systems after the date of the enactment of this Act, in taxable years ending after such date.

AMENDMENT NO. 3330

(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(e) (relating to application of section) is amended by inserting "January 1, 2008, by a taxpayer who is an eligible retrofit water submetering device placed in service after the date of the enactment of this Act, in taxable years ending after such date.

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. 4. 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) of the Code is amended by inserting at the end of subparagraph (A) of paragraph (1)(B) the following new subparagraph:

"(L) expensed by the taxpayer to enable consumers to manage water submetering device placed in service during the taxable year.

(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each water submetering device placed in service after the date of the enactment of this Act, for purposes of paragraphs (2)(C) and (3)(C).

(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.

AMENDMENT NO. 3396

(Purpose: To extend the credit for the production of fuel from nonconventional sources with respect to certain existing facilities.) 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. 3397

(Purpose: To carry out pilot programs that aid accurate carbon storage and sequestration accounting.) On page 497, between lines 18 and 19, insert the following:

SEC. 3. 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 on or forest, agricultural, or cropland management practices over various periods of time.

(b) PILOT PROGRAMS.—The Secretary of Agriculture shall make competitive grants to carry out pilot programs to demonstrate and assess the potential for development and use of carbon inventories and accounting systems that are accurate and reliable.
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 program, including eligibility criteria, 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 research 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 greenhouse gas emissions 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 and future land use. 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 forest and timber products.

This research 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 Department of 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 forest and timber products. 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 in the process of pursuing 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 carried for in the amendment would include public and private science and policy groups as well as by the community. 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 title I of the Agricultural College or universities as defined both by the National Agricultural Research, Extension and Teaching Policy Act of 1977 and title I of the Agricultural Research, Extension and Teaching Policy Act of 1977 and title I of the Agricultural Research, Extension and Teaching Policy Act of 1977 and title I of the Agricultural College and State Institute Act of 1994. These research institutions, as well as others with demonstrated experience in the field should be included among the eligible entities as 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 programs.

Carbon sequestration and storage potentially serve both environmental and economic interests. I have letters of endorsement from the American Farm Bureau, the National Farmers Union, The Farmers Union, The Institute of 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.

Mr. BINGAMAN. Mr. President, 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,
Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

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

The amendment (No. 3360) was agreed to, as follows:

"(a) BONNEVILLE POWER ADMINISTRATION BONDS.—

"(1) In general.—The Administrator; and

"(2) by adding at the end the following:

"(b) to implement the authorities of the Administrator authorized under paragraph (1) or any other provision of law, an additional amount, to remain outstanding at any 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 on 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 toward 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 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. It introduced 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 is 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 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 Vermont, 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 among providers to dial-up a multi-million 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 wired 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, or 1,000,000 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 and 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 road commute. And retail e-commerce has been 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 Telemark 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. Access to 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 broadband 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 will provide greater access to high-speed Internet 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 20th century, productivity increased on average only 1.5 percent per year. Then, when we began to link our computers over the Internet, productivity jumped to 2.3 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 note 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 under-served 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 broadband 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—HTTP—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 is crucial to ensuring 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 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’ radiological 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 rate of 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. As I agonize with whole heartedly. 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 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, 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 not a matter of a specific kind of delivery system. So this bill sets the standards and lets all competitors 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 in broadband deployments 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, 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 the country, which is 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. Each of these countries 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 and is so large that it is more than a billion dollars per year, larger than the entire United States. 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, a fraction 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 businesses. 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 not a former small-businessperson myself, and I know how difficult it is for small companies 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 are broadband dependent 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 to join in 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 have joined this Senate’s 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. Thank you, Senator 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 telecommuting, for example—will absolutely life altering for many Americans. In rural areas, we will find even more ways to use broadband—tele- emergency services, remote monitoring of crops, remote livestock auctions, etc. The fact is that when we are laying 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 1998. 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 credits 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 "blanket" 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 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 write 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 that Chairman's seat, we always confer with each other 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 Chair- man, and I appreciate the opportunity to speak on this topic. I am pleased to be a co sponsor of Senator Rockefeller's bill, and I think it is important legis- lation. As you probably know, I have spent a fair number of hours on a farm in my life, and I can tell you that tele- communications are absolutely a cru- cial 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. That is what is hap- pening now—the state of the art is evolving, and rural areas are being left behind. In urban areas, we have won- derful 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 easi- er 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 legis- lation is very important.

I want to point out one provision in this bill which will be extremely im- portant to rural areas, and that is one involving telephone cooperatives. Any- body from a rural State knows the impor- tance that coops play in making sure no one goes unserved. There are some places that are so scarcely popu- lated that the big publicly-owned com- panies 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, 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 ad- vantage 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 en- courages coops to make broadband in- vestments 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 en- courages a crucial infrastructure in- vestment, 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 col- leagues 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 ef- fect 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 about the importance of what we are doing, I think we should take a look at the farm groups that have en- dorsed this bill. The American Farm Bureau, American Agri-Women, Na- tional Cattlemen's Beef Association, National Corn Growers Association, National Council of Farmer coopera- tives, National Pork Producers Coun- cil, National Sorghum Producers Asso- ciation, National Wheat Growers Asso- ciation, North American Export Grain Association. If a farm organization feels about broadband, you should take a look at the farm groups that have en- dorsed this bill. The American Farm Bureau, American Agri-Women, Na- tional Cattlemen's Beef Association, National Corn Growers Association, National Council of Farmer coopera- tives, National Pork Producers Coun- cil, National Sorghum Producers Asso- ciation, National Wheat Growers Asso- ciation, North American Export Grain Association. If a farm organization feels about broadband, you should take a look at the farm groups that have en- dorsed this bill.

But regardless of which of us is sitting in the Senator's seat, we always con- fer with each other and work closely together, and I know he cares as much as I do about broadband technology out to rural areas not having telephones. That is better. If a rancher can show his cattle for sale to a distant buyer without driving or flying to the city, then that is better. If a rancher can show his customer without driving across town or getting on an airplane, then that is better. If a rancher 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 trans- porting them to a sale barn, then that is better. If a rancher can show his cattle for sale to a distant buyer without the expense of trans- porting them to a sale barn, then that is better. 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If a rancher can show his cattle for sale to a distant buyer without the expense of trans- porting them to a sale barn, then that is better. If a rancher can show his cattle for sale to a distant buyer without the expense of trans-
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 majority leader about it, and 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 we 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 Internet 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 co-sponsor on Senator Rockefeller’s broadband tax credit bill and a supporter of the amendment offered on the bill, I believe I can help us focus on what needs to be done.

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 bill. He and I work 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 legislation 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 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, I do 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 of our citizens have access to the best 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 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 we 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 Internet 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.

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 telecommunication 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 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.

(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 telecommunication networks and capabilities (including wireless and satellite networks and capabilities) in rural and underserved areas; and

(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 telecommunication services in rural and underserved areas.
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 which has longstanding, I urge my colleagues to support it and to move the credit to the floor at the earliest opportunity.

Mr. ROCKEFELLER. I appreciate the Leader’s interest and support. With that support, we hope all of 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 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. 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 Congress. Passing a 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 co-sponsor 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 the 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, we hope all of 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 EFFICIENT COMMERCIAL BUILDINGS

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 agree?
referred to 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. 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 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 for 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.

Section 834 also eliminates the sulfur requirement for reformulated gasoline. 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 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 up gasoline to obtain a competitive advantage. The only reasonable way to address this situation, Mr. President—allow 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 to 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 HOVENSAs, 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 supplied 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 is eliminated from 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 demonstrates this result. They could buy credits, if they were available, but this would allow refineries 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 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 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 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 up gasoline to obtain a competitive advantage.

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 over the years, 1998, 1999, and 2000. It is thus nearly identical to the anti-backsliding provisions of Subtitle C—it only differed in 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.
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 facility in St. Croix. In this case, it is federal law that 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 these refineries produce significantly lowers 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 on the burden of cleaning 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 two-fold. 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 establish under the anti-backsliding provisions of Subtitle C of Title VIII if and when the Energy bill, or any other bill takes effect before or supersedes 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 rules, I wonder whether EPA has negotiated 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 of 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 base-line 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 comments and perspective on this issue, as this is a very important issue for my State and region.

Mr. CORZINE. I again thank the distinguished chairman of the Environment and Public Works Committee for his comments and perspective on this issue. 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 refinery 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 constitute a significant backsliding of our environmental policy. And I should hasten to add, Mr. President, the ranking member of the Committee, I believe that the Environmental Defense Fund’s most recent rankings. As a matter of sound environmental policy, New Jersey refineries literally 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 Committee 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.
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 management committee to the tax-writing due 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 electric power 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, 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 burdensome and there 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 bond or 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 debt.

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 to exceed the 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 the committee wishes to 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 many of the private business use contractual sales, if any, are done in a manner 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 least delay 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.

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 detailed provisions 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 established in concerns about its ability to provide timely information to Members of Congress. Often its 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 institutional credibility, 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 committee members 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 been greater. Many of the issues that we tackle every day involve some scientific or technological element.
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 coming elderly. 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 chairman’s interest in this.

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 enhanced renewable energy, 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.

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 Mexico 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.

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 is what is proposed 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. For the Secretary’s determination 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 into account considerations 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 regulate 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. Section 602 does not alter this policy. The Secretary must determine the BLM’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 resources 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. Improvement 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 a colloquy with the Senate. 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 modify the BLM’s policy to provide 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.

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 require 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, these 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 Carrillo 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 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. This 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 conclusion, I associate myself with the goal of the Senator from California. One of the California lessees has its headquarters in Colorado. I know that this company has wasted a great deal of money and support 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 Administration. I will 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. 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 toward fairly compensating 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 achieve 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 the Administration is involved in an effort to find a way to ensure that their is a way to identify the shalow underground structures that have the potential to contain 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 storage 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. I hope to work with him that it can be dealt with in the conference appropriatly 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 (3) to conference report so that it gives the proper guidance and intent to the department?

Mr. ROBERTS. I thank my good colleague from New Mexico for understanding the reason why this amendment is important but it is only made 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 utilities. The Ontario 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 important 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 and 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 New Hampshire 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 Dr. Dan Kish, Jamie Karl and Andy Wheeler. I am pleased that this comprehensive solution is supported by so many of my colleagues.

Mr. NELSON of Nebraska. Mr. President, this was not an easy product of two months of debate and compromises to reach, but we have come together on an effective solution. I want to thank Senator Daschle and Senator BIDEN for the research of techniques to automatically be granted. This provision within 30 days, the petition will automatically be granted. This provision takes important steps toward cutting dependence.

My colleagues, determined to weaken the ethanol industry, would have passed the Senate today by a bipartisan vote will increase energy supply—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 provisions that increase and assist 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.

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 and Senator BIDEN for the research of techniques to automatically be granted. This provision takes important steps toward cutting dependence.

I am voting in favor of this bill today because it provides 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 last two years there have been huge fluctuations in the price of gasoline and 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, 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 ethanol plants operating 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 arises within 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 wholesale dependence on foreign oil dependency.

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 sales indicate that 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 proposal to increase the amount required by the current RFS from 2004 to 2.3 billion gallons in 2001—not the 2.5 billion gallon capacity.

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 the two years there have been huge fluctuations in the price of gasoline and ethanol. Can I post on April 4. It is titled “Why We Can’t Drill Our Way to Energy Independence.”
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-minded and determined to protect our national interest abroad and homeland security in America.

We see, 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 security 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 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 dispoal problem, and ends up in landfills 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 homeland, energy independence, homeland security and its economy through new basic industries, quality jobs and an expanded tax base. The environmental benefits are equally important.

If the Senate 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 standards that are much closer to those in California.

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 introduction 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, 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 that of MTBE, ethyl alcohol-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. 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.

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 independence. 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 reality, but just 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 world oil. We peaked 1953. But even since then, our proportion of world oil production has been dropping, with every year bringing off the southern edge of the Gulf of Mexico.

It’s simple. We’ve already drained almost every-deeper waters of the Gulf of Mexico?

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 oil reserves. If 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 fast, 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 going to be 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 added domestic production 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 respond to energy crisis, 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, in 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 new energy 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. JERFORDS, to increase this percentage to 20 percent by 2010. We can see from the floor that 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 energy by 2010. We do not do enough to use more renewable sources of energy, and this bill should have set a serious target.

In addition, this bill repeals the pro-consumer 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 by ensuring that utilities could not write a blank check and do more to use renewable sources of energy, and this bill should have set a serious target.

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. We attempted an attempt to open the Alaska Wildlife Refuge to drilling, for which I am very grateful to the grassroots of California for all their efforts. But drilling in Alaska did get 46 votes, and I am concerned that if 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 use of renewable energy facilities. We spoke very clearly that drilling in the Arctic National 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 efficiency standards, but I am 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 does more harm than good for the people of California.

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 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 liabilities the provisions give to the 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 securing more energy.

I'm concerned that 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 75 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 which would have substantially decreased since the House-passed energy bill includes more than $30 billion in energy tax subsidies.

As I listened to many of my colleagues 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 fails 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 in fuel efficiency standards to 36 mpg average by 2015, we could have potentially reduced 1 million barrels 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 growing 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 trucks by 50 percent by 2015. Both these critical measures would have gone far to improve energy efficiency, the environment, and public health. By increasing CAFE standards by 40 percent and reducing our 1.5 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 40 percent and reducing our oil consumption, 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 beneficiary 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 octane content, methyl tertiary butyl ether, MTBE, which has been proven to contaminate ground water. 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 dually financed by the taxpayers 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 self-sufficient. 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 that is a 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 weaknesses in our tax credit 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” biogas, 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, rabbits, snakes? 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 the most system that 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 efficiency measures, 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 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 5 trillion cubic feet of natural gas to market, the largest offshore 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, supported by 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 to 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. Feinsteinsaid, Mr. President, when the members of the Senate Energy Committee, including Senator Schumer, 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 wanted to do a single thing 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 on this scale of 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 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.

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 in a wealth transfer from California and New York and other coastal States to States in the Midwest.

It actually triples the ethanol mandate by 50 percent. California also 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) re-formulated 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...
Mr. BUNNING. Mr. President, I rise today to talk about biodiesel, an alternative fuel. 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 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 send 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 portfolio standard, 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 boost 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 portfolio standard, 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 portfolio standard as amend ed 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 landfills and incinerators 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 is extremely toxic and 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 could 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, reproductive 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 biomass 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 municipal incineration. Nor does 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 encouraged 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 76 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, geothermal and biomass 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 1980, 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 profiting from many of these technologies we developed in the U.S. But they have surpassed us because their governments have provided 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 is the geothermal energy powerhouse 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 280 megawatts to meet the needs of 280,000 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 the 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 lead in wind energy, and Japan in solar energy. Foreign corporations are profiting from many of these technologies we developed in the U.S. But they have surpassed us because their governments have provided stable support for renewable energy production and use.

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 respects, 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 this work done by the two managers of this bill. Senator BINGAMAN and Senator MUKOWSKI 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. I know we have, but I want to express my 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. If we were to have to say we are 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 refineries, 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.

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.
The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the nomination of Joan E. Lancaster to the 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 that 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 District Court nominees 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 over four years 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 two years 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, the Senate has moved at a pace that the American people have not seen 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 Senators led by their own party.

The confirmation of these nominees today demonstrates our commitment to promptly to consider qualified, consensus nominees. I commend Senator Kohn 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 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. The 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 Erickson 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 no doubt that Judge 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 1998, 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 be forced to scrutinize these 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 Judge of the United States District Court for 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 was 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 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 highly 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 RASKIN 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 warm congratulations, anticipating her confirmation. I commend her to the full Senate enthusiastically, and am confident that she will 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 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—Boren—Cochran

Baucus—Burns—Collins

Bayh—Byrd—Conrad

Benjamin—Isett—Corzine

Biden—Canwell—Craig

Bingaman—Carnahan—Crapo

Bond—Cochran—Daschle

Boxer—Chafee—Dayton

DeWine—Dodd—Jeffords

Domenici—Domenici—Johnson

Durbin—Kennedy—Kerry

Edwards—Kohl—Kyl

Enzi—Landrieu—Leahy

Feingold—Penn—Levin

Fitzgerald—Penrose—Lieberman

 Fleming—Perdue—Lincoln

Graham—Reed—Lott

Gramm—Reid—Lugar

Grassley—Reid—Stabenow

Gregg—Reid—Stevens

Hagel—Reid—Thomas

Hatch—Reid—Torricelli

Hollings—Reid—Voinovich

Hunstison—Reid—Warren

Hutchison—Reid—Wellstone

Inhofe—Reid—Wyden

NOT VOTING—1

Helms

The nomination was confirmed.

NOMINATION OF WILLIAM C. GRIEBACH 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. Bellfuss, the Chief Justice of the Wisconsin Supreme Court. He then worked for two 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 non-profit organization that provides legal services for the poor.

I have every confidence that William Griesbach will serve with distinction on the 9th U.S. 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 judiciary 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. It is a record we said we would demonstrate once again.

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:

[Recall Vote No. 96 Ex.]

YEAS—97

Alaska

Akaka

Durbin

McConnell

Arizona

Bingaman

Frist

Hickox

Arkansas

Ben Nelson

Nelson (NE)

California

Dodd

Franken

Harkin

Delaware

Shaheen

Georgia

Wright

Michigan

Gillibrand

Rogers

Minnesota

Klobuchar

Reid

Mississippi

Bennett

Feinstein

Nebraska

Sensenbrenner

New York

Collins

Kyl

New Jersey

Cory Booker

Murphy

New Mexico

Gallagher

McCain

New York (NY)

Heller

Nixon

New York (NY)

Johnson

Obama

Washington (D.C.)

Leahy

Torricelli

Washington (D.C.)

Levin

Voinovich

Washington (D.C.)

Lehnerman

Warner

Washington (D.C.)

DeWine

Lincoln

Westmoreland

West Virginia

Dodd

Loertscher

Wyden

Florida

Beverly

Melendez

Wyoming

Burns

Palin

Wyoming

Bingaman

Nebraska

Yeas 97, nays 0.
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 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 committee 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 Bill Wicker, Patty Beneke, Jonathan Black, David Brooks, Shelley Brown, Mike Connor, Deborah Estes, Kira Finkler, Sam Fowler, Amanda Goldman, Leon Lowery, Jennifer Michael, Shirleen 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, 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 Umhöfer, 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 really 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 be it not for them. On this particular.

contribution of our staff. As is always

we know who actually does the work.

REID is most noteworthy because Sen-
ator 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 pre-

vious 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 conferences, 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 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 program.

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: CAPE, electricity, renewables, and so forth.

I recognize the efforts of our Commander in Chief, President George W. Bush. Today is a good day 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 legislativeblueprint 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 yet done. We have much 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 on 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 bill to the President not because it is the President’s legislation or his priority, and not because it is the Senator’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 Hangan, staff scientist. I thank staff assistants Dan Kish, Christine Drager, Mike Merge, Howard Useem, Colleen Deegan, David Woodruff, Joe Brenchler, Frank Gladics, Jack Phelps, Jim O’Toole, Josh Bowlon, Julia Gray, Shane Perkins, Jared Stubbs, Macy Bell, and Dick Bouts, our personal staff: Paul Polimeni, Jason Gillenwater, 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 a prominent Arab arties.

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 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 said they knew 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. Can anyone imagine this 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 Muslims holiday feasts were prepared with the blood of Jewish vampires. 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 demand of our government in 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 moment might think twice before offering financial incentives for so-called martyrdom.

Imagine if the President of the United States and the Members of the Council of Contribution 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 have spoken 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 indeed 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—like the hatred 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 do 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 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 that is 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 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 contribute to the promotion of 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 unilaterally announce a 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.

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.

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 retired 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 issues and I am fortunate 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 served as the Fifth Army and U.S. 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 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 first command position as Commandant 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, providing the 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 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 $14 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, and was very much so that by 1980 he became an instructor in missile combat crew operations at Vandenberg Air Force Base in California. His 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 Command Surgeon at 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 Commanding General 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. Air Force, Ramstein, 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.

I know I speak for all of my colleagues in expressing my heartfelt appreciation to General Mercer. 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 Mercer in his next career.

TRIBUTE TO BRIGADIER GENERAL ROOSEVELT “TED” MERCER, JR., COMMANDANT, JOINT FORCES STAFF COLLEGE

Mr. LOTIIB. Mr. President, I would like to state a special recognition to 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 Commandant of the 81st Training Wing, General Mercer personified the Air Force core values of integrity, service before self, and excellence in all things. Many opportunities 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 him for 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.

In 1981, 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 Commanding Officer 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 Commanding General of the 91st Operations Group.

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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. Air Force, Ramstein, 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.

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 Mercer. 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 Mercer in his next career.
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 follows:

NOT THE PEOPLE’S CHOICE

(From the American Prospect, Mar. 25, 2002)

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 balls, 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; and now by the pronounced effort 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 disputed election and co-chaired (honorably) 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 issues identified as critical” in the post-election analysis of the 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 government than debate over the mode of choosing the chief executive. The framers, determined to ensure the separation of powers, rejected the proposal that Congress select the president. But in 1800, both James Madison and James Wilson, the “fathers” of the Constitution, argued for direct election by the people, but the convention. Madison’s name and that of the Virginia electors, 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 other, 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 conventional role of the electors was 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 or not to be authorized to routinely ignore or invalidate the choice of the voters. The electors, said John C. Calhoun, a Virginia congressman, are the “organs... acting from a certain and definite view of the interest of the state represented and 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 8th Federalist, “that the sense of the people through the choice of the person to whom so important a trust was to be confided.” As Lucius Wilmendinger, Jr., concluded in his magisterial study of the electoral college, it was never meant to choose the President but only to pronounce the voice 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. It was then that 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 certainly true in 1876, and it is certainly true according to the balloting of 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 proportional voting in the electoral college—change the electoral units from states to congressional districts, for example, or to require proportional electoral votes. In the 1890s, 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 1969 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 proportional 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 election. The most prominent president was John Quincy Adams. In the 1824 election, Andrew Jackson led in both popular and electoral votes; but with four candidates dividing the three, 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. 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 college majority.

“To the people belongs the right of electing their Chief Magistrate,” Jackson told Congress in 1828. “The first principle of our government is to govern.” He asked for the removal of all “intermediate” agencies preventing a “fair expression of the will of the majority.” And in his verdict on the Adams-Buchanan selection, Jackson added: “A President elected by a minority cannot 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 1876 and Benjamin Harrison in 1888—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 1967. 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. His appointment was confirmed by the Senate.

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 thousands of 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 to count the electoral votes. The commission gave all the disputed votes to Hayes. This was a supreme election swindle. But in the electoral college, not the electoral commission, not the electoral college, that denied the popular-vote winner the presidency.

In 1888 the electoral college did deprive the people of Democratic nominee Cleveland, of victory. But 1888 was a clouded election. Neither candidate received a majority, and Cleveland's margin was only 180,000 votes. But the electoral commission, and the commission was widely accepted at the time, and by scholars since, that white election officials in the South perhaps 300,000. Black Republicans from the polls. The installation of a minority president in 1889 took place without serious protest.

The Republican wave 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 E. Hughes had gained 1,000 votes in California, he would have won the electoral-college majority, though he lost the popular vote to 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 more than half a million votes behind Harry Truman. In 1976, a shift of 6,000 votes in two states would have kept President Gerald Ford in office, though he ran more than half a million and a half votes behind Jimmy Carter.

Over the last half-century, many other eminent politicians and organizations have also pressed the argument for a direct election of presidential candidates: Presidents Richard Nixon and Gerald Ford; Vice Presidents Alben Barkley and Hubert Humphrey; Senators Robert Taft, Mike Mansfield, Barry Goldwater, 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 invertebrate and persuasive constitutional reformer, a potentially explosive question was fumbled, the fear that Governor George Wallace of Alabama might win enough electoral votes in 1968 to carry the country 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 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. The court canceled the election of 2000. For the fourth time in American history, the winner of the popular vote was refused the presidency. For the fourth time, 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 candidate Ralph Nader, making the victory, George W. Bush, more than ever a minority president.

Nar was Bush’s victory in the electoral college unclouded by doubt. The electoral college turned on a single state, Florida. Five members of the Supreme Court, forsaking their “unit rule” (the one-man one-vote principle) to resolve the Florida recount and thereby made Bush president. Critics wondered: if the facts had been the same but the candidates reversed, with Bush instead of Nader (as unded observers had rather expected) and Gore hoping to win the electoral vote, would the gang of five have found the same legal argument to elect Gore that they used to elect Bush?

I expected an explosion of public outrage over the Florida recount. 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—in tolerable predicament because it could not resolve the theory of democracy. Many expected that the election would resuscitate the movement for direct election of presidents. Since direct election would end the rackets, the small-state opposition, it was 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 system is not in the small ones. Far from being hurt by direct elections, small states, they say, would benefit from them. The idea that “the present shambles of presidential politics was to switch churches. The great difference between then and now is the decay of the party as the organizing unit of American politics. In modern history of parties has been the steady loss of the functions that gave them their classical role. Civil-service reform legislation dried up the patronage. Social legislation reduced the need for parties to succor the poor and helpless. Mass entertainment gave people more agreeable diversions. 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.

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tiers: the politician 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 through the links that hold the political process together.

The electronic revolution has substantially abolished this mediating role. Television presents politics directly to the public, who judge candidates far more on what the show boxes 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 increased voting, and for the number of independent presidential candidates by fugitives from the major parties: Henry Wallace and Strom Thurmond in 1948, George Wallace in 1968, Eugene McCarthy in 1972, 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 descent into the kind of political limbo that 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 war-lords, forming alliances with others, and, if they are victorious, striving to govern through ad hoc coalitions. Accountability would fade away. Without the stabilizing influence of parties, American politics would grow more 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 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 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 adventurers (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, homophile parties, and prohibition parties, and on down the single-issue line.

Splinter parties would multiply not because they expected to win elections but because this 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 vote. The provisions of a 41 percent presidential vote or else a succession of double national elections. Moreover, the winner in the first round might often be beaten in the second round. Hence the desire of the splinter parties to dominate the runoff elections. This result would hardly strengthen the sense of legitimacy that the electoral-vote winner needs 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 for its presidential vote winner. The reform plan 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 and encourage parties to maximize their vote in states that they have no chance of winning, it would reinvigorate state parties, stimulate turnout, and enhance the electoral bonus. A 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?
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. CHAFFEE. 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 21–12–1 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 Jersey power, Joe Wirth was the coach of the wrestling team the same season. It was the first time in the school’s history 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. His wife, Carol, he raised a wonderful family of six children. 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 this first offered to the 1976 Ivy League Champions by my classics professor, John Rowe Workman:

To your continued prosperity
To your continued prosperity
To your continued prosperity
To your continued prosperity

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 in 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, Charles 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. Eight other leading counties in pecan production include 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 diet of the American Heart Association. I encourage all Americans to celebrate National Pecan Month with the people of New Mexico.

TRIBUTE TO 2002 TEACHER OF THE YEAR: CALIFORNIAN CHAUNCEY VEATCH

Mr. 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 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 medics. He left the military to work 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 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 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. The term “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.”

Mr. 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 teachers 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...
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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. Most recently, 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 and in 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 professionals. 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 questions raised by others.

One particular part of the position paper caught my attention as it explains 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. We 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. We are not untrained, untrained we will not run. God forbid the day ever comes, but if it does, we will stay and fight for you and for your 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 untiring commitment to protecting all of us—those are true patriots. I ask that the letter and position paper of Local 501 be printed in the CONGRESSIONAL RECORD.

DEAR SENATOR SMITH: We understand from news reports that two former security officers from Seabrook 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 letter presents the position of Local 501 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 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 to many that a week goes by that there is not a story in the news regarding the possibility of attacks against a nuclear power plant. This increases awareness and focuses on our 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 professional.

In recent weeks, formally new 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 brought 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.

The training was not consistent with the quality and quantity of tactical and defensive training they received during the initial six weeks of initial classroom and practical training. It is important that the public understand that the 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 the art U.S. Nuclear Regulatory Commission certified course of fire. After qualification came familiarization training on a stress-fire course and low-light firing. Only two of the 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 as extensive as that of a SWAT team or a Special Forces branch of the military. We are by very nature, defensive, not offensive. During our initial training, we spend only four days learning general and site-specific tactics. This training, coupled with an intimate knowledge of the plant, ongoing training and drills, we believe and after the 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 internal and outside security tests. We want the public to know that it has been validated numerous times by both internal and outside security tests. 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 to many that a week goes by that there is not a story in the news regarding the possibility of attacks against a nuclear power plant. This increases awareness and focuses on our results.

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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. 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 has independence 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 more about the NSA, most of the attention goes to signals intelligence.

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 that involved 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 honored with the NSA Exceptional Civilian Service Award and the National Intelligence Medal of Achievement.

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, 15 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 hereditary angioedema and suffered repeated attacks involving 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 liver and 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, but 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 grown to serve the needs of 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 at 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 practices 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 for Justice’s CoMotion Program, a national program that helps community organizations teach youth leaders to become advocates for a cause in their community. Comotion 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 actions to make a difference. 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 need for support. 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:

KEEPCING CENTRAL ASIA’S KLEPTOCRATS AT ARM’S LENGTH

(By Leland R. Miller)

As American planes take off from Uzbek air strips to support 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 supplies and strategic air superiority—from Central Asian regimes trumps all other considerations. 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 to the和地区 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 has been siren more effectively than Kazakhstan. Although it is one of the world’s poorest countries, its president, Nursultan Nazarbayev, is ranked as the ninth 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 wealth and foreign investments.

The Kazakh leaders entice investments or loans, take over the investments under some pretext, then sell the same horse again to new investors. This is a familiar scenario.

The recent crisis in Kazakhstan only reinforces this image. It began when Rakhat Aliev, son-in-law to President Nazarbayev, was forced to resign his position as deputy chairman of the National Security Committee after reportedly making an illegal run at the Nazarbayev family’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 stick 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 coterie of crooks 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 disparaging our country and wishing to participate in political movements should resign.”

Perhaps no one outside of the palace in Astana knows what this is 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 individuals unhappy with the 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 Turkmens’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 institutions 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. Central Asia, ethnic and religious differences among the populations constitute a
 MEASURERS REFERRED

The following bill was read the first and the second times by unanimous 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 rule entitled “Confering Designated Port Status on Anchorage, Alaska” (RIN 1018-AHT5) received on April 22, 2002; to the Committee on Environment and Public Works.

EC-6574. 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 “Model Regulations for Developing and Maintaining a Wildlife Law Enforcement Program” received on April 17, 2002; to the Committee on Environment and Public Works.

EC-6575. A communication from the Chairman and Vice Chairman of the Federal Election Commission, transmitting jointly, the Fiscal Year 2003 Budget Request Amendment 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:


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

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.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

TAKING 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 paid 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 for are not payed 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.

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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.)
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, 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-320. 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.

H. 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 multinational 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 may have to be borne by State and local governments, workers and business; and

WHEREAS, The economic stimulus package adopted by 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 adopt 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

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. Res. 109: A resolution designating the United States Marshal for the District of Missouri for the term of four years.

John Edward Quinn, of Iowa, to be United States Marshal for the Eastern District of Iowa for the term of four years.

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 819: A bill to designate the Federal building located at 143 West Liberty Street, 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 located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the “Ron de Lugo Federal Building.”

Bills and joint resolutions were introduced, read the first time, amended, referred as indicated:

H.R. 486: A bill to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the “Ron de Lugo Federal Building.”


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 Marshall 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 return 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. 3250. A bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for 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. SANTORUM:
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 a certain chemical; 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.

S. 2257. A bill to extend the temporary suspension of duty on Pigment Red 175; to the Committee on Finance.

By Mr. REED (for himself and Mr. CRAPELLE):
S. 2258. 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. 2259. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Finance.

By Mr. SPECTER:
S. 2260. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Finance.

By Mr. SPECTER:
S. 2261. A bill to include shoulder pads as a finding or trimming for the purposes of the African Growth and Opportunity Act, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:
S. 2262. A bill to suspend temporarily the duty on 2-Amino-5-sulfobenzoic acid; to the Committee on Finance.

By Mr. SANTORUM:
S. 2263. A bill to suspend temporarily the duty on 2-Amino-6-nitrophenol-4-sulfonic acid; to the Committee on Finance.

By Mr. SANTORUM:
S. 2264. A bill to suspend temporarily the duty on 2-Amino-6-nitrophenol-4-sulfonic acid and its monosodium salt; to the Committee on Finance.

By Mr. SANTORUM:
S. 2265. A bill to suspend temporarily the duty on 2-Amino-6-nitrophenol-4-sulfonic acid and its monosodium salt; to the Committee on Finance.

By Mr. SANTORUM:
S. 2266. 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. 2267. A bill to extend the suspension of duty on Solvent Blue 124; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):
S. 2268. 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. 2269. 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. 2270. A bill to extend the suspension of duty on Pigment Yellow 154; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):
S. 2271. 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. 2272. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):
S. 2273. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.

By Mr. SPECTER:
S. 2274. 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. 2275. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):
S. 2276. 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. 2277. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):
S. 2278. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.

By Mr. SPECTER:
S. 2279. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.
(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. 1915

At the request of Mr. KENNEDY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1915, a bill to enhance the border security of the United States, and for other purposes.

S. 2033

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 evidence from crime scenes, and for other purposes.

S. 2081

At the request of Mr. BOND, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 2081, 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, solidify Syria’s important 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. 2232

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. DOEGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a co-sponsor 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 "National Celebrating Young Americans Day," 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.

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 $3,000,000 reservists currently aged 50 to 55 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 set 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 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. Manifestly 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 the next 10 years. However, the 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 the Defense and the military, there has been a curious, almost knee-jerk, reluctance on the part of the Department of Defense to support reservists who are putting their lives on the line for our country.

There has long been a need to increase the cadre of reservists available to the Nation in times of crisis. In the past, the reserves have been able to draw 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 recognize 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-IHS 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 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 with eating disorders, depression, and suicide attempts have also been traced to past abortions.

(3) Negative emotional reactions associated with very little research has been sponsored by abortion reactions. 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 treatment plan. The symptoms, severity, and duration of depression vary based on how 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.

(3) 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, programs, and activities—

(1) for the diagnosis, assessment, treatment, 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, an Indian tribe, an institution of higher education, a community-based organization, a hospice, an ambulatory care facility, a community health center, a migrant health center, a migrant health center, a homeless health center, or another appropriate public or nonprofit private entity; and

(2) has 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 the following:

(1) a comprehensive 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 provisions for financial assistance and insurance) for individuals with post-abortion conditions and support services for their families.

SEC. 202. CERTAIN REQUIREMENTS.

A grant may be made under section 201 only if the applicant 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 for 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 203 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, deliver a comprehensive program to 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 $3,000,000 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 information provided to my office, many 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 harm American businesses and consumers. In the case of the 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 not harm 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 of running the city. 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 unanimously 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 on the day the Senate is scheduled to conclude its work for the year. 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, the constitutional schedule has often interfered with the smooth operations of the District. Like the Federal Government, the District Government is in charge and doing a great job. They do not want the Control Board to come back on their watch. 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 Joe 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—for 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 $1.6 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...
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 homes.

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 technologically feasible to reduce the ignitability 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. Currently, 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 required the 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 a variety of 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 Philip 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 was 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 technologically 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 pregnant, 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 increased 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 million women who give birth in the U.S. each year, one-third—or roughly 550,000—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 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 three 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 woman’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 99% 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 access to safe and effective prescription drugs. That is why earlier today, I, along with 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 makes 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 makes a critical step towards ensuring the protection of our national interests. It is a critical step 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 held at various seaports around the nation. The 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 Port and Maritime Security Act would authorize 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 moves more than 2 billion tons of domestic and international freight, imports 3 billion tons of oil, transports 334 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 component of the supply chain. 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 in the world to 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 have a direct 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. That is a mandate 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 Miami, Port 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 use 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 position 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 fragile cargo enter our 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 internationanl agreements 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 areas, they designate as secure zones, and require recommendations to better secure them.

Last year, the U.S. Coast Guard, identified 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 obsolete. In the aftermath of the bombings of the U.S. Embassies in Mombassa and Dar-Ei-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 more difficult than identifying the shipping assets owned by the terrorists. I would also mention that, a recent report in Lloyd’s List, a business publication

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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 30101 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-Ship, Sea-
transportation should undertake the negoti-
the registration and ownership of vessels oper-
the registration and ownership of vessels ent-
their registration and ownership of vessels oper-

(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 this subsection—

(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 re-

SEC. 3. UNIQUE SEAFARER IDENTIFICATION.

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negoti-
in an international agreement, or amends to an international agreement that provides for a uniform, comprehensive, amendment of an international agreement, seafarers that will enable the United States and other countries to establish authori-
tative security zones, shore-side protection alter-
metal, and other countries to establish authori-

(b) LEGISLATIVE ALTERNATIVE.—If the Sec-
 fails to complete the international agreement negotiation or amendment proces-
taken 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 Representa-
implemented and enforced 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 enhancing the security within the security zones of ports, territorial waters, and waterways of the United States.

(d) REPORTS.—

(1) INITIAL REPORT.—Within 12 months after the date of enactment of this Act, the Commandant shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representa-

(e) AUTHORIZATION OF APPROPRIATIONS.—

TRANSPORTATION AND INFRASTRUCTURE; to the Com-

(f) AUTHORIZATION OF APPROPRIATIONS.—

SEC. 4. GREATER TRANSPARENCY OF SHIP REG-

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negoti-

(b) LEGISLATIVE ALTERNATIVE.—If the Sec-

(c) Authorization of Appropriations.—This Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives of the United States.

SEC. 5. INTERNATIONAL AGREEMENT ON CON-

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negoti-

(b) LEGISLATIVE ALTERNATIVE.—If the Sec-

(c) Authorization of Appropriations.—This Act.

SEC. 6. COAST GUARD TO DEVELOP RISK-BASED ANALYSIS AND SECURITY ZONE SYS-

(a) IN GENERAL.—The Commandant of the Coast Guard shall establish—

SEC. 7. COAST GUARD COMMANDANT TO PROVIDE SECURITY VESSELS AND ZONES.

(a) AUTHORIZATION OF APPROPRIATIONS.—This Act.

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 promote 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. BURNS. 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. The 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. 2346), 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 1/4 of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian; and


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 Mineral Hill mine and the historic Jardine Mining District, which was established during the 1860s. 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 considering 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 bonus, 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 interpretative 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.” Furthermore, 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 announce 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 Gifford Pinchot National Forest, which was established in force.

The 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.

This bill provides for the development of a technology research center.

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, BACUSA, INOUYE, BINGAMAN, STABENOW, and MR. CLINTON.
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. 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 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 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 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 be more hopeful as it becomes a reality for all Americans. This legislation is critical to ensuring that economic growth and economic opportunity persist in 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, that—

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Small Business Development Act of 2005.”

SEC. 2. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesigning section 36 as section 37; and

(2) by inserting after section 35 the following:

SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

(a) DEFINITIONS.—

(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(m));

(2) the term ‘Alaskan Native corporation’ has the same meaning as the term ‘Native Corporation’ in section 3(a) 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 section (b);

(4) the terms ‘center’ and ‘Native American business development 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 626 of the Older Americans Act of 1965 (42 U.S.C. 3057k); and

(8) the term ‘Native Hawaiian organization’ has the same meaning as in section 6(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 7530(a)(9) of title 25, United States Code; and

(ii) 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 paragraph (A) shall have—

(i) knowledge of the Native American culture; and

(ii) experience providing culturally tailored small business development assistance to Native Americans.

(C) Q UALIFICATIONS.

(1) PURPOSE.

The purposes of this title are—

(i) to administer and manage the Native American Small Business Development Program established under this section;

(ii) to recommend the annual administrative and program budgets for the Office of Native American Affairs;

(iii) to establish appropriate funding levels; and

(iv) to review the annual budgets submitted by each applicant for the Native American Small Business Development program;

(v) to select applicants to participate in the program under this section; and

(vi) to 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;

(ii) tribal governments;

(iii) tribal colleges;

(iv) Native Hawaiian organizations; and

(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.

(2) RESOURCE ASSISTANCE.—The Administration may provide in-kind resources to Native American business centers located on tribal lands. Such assistance may include—

(A) personal computers;

(B) software programs;

(C) CD-ROM technology and interactive videos;
“(iv) distance learning business-related training courses;  
(vi) computer software; and  
(vii) reference materials.  
(C) 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) 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) education, including training and counseling in—  
(I) identifying and segmenting domestic and international business 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—  
(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.  
(D) FORM OF FEDERAL FINANCIAL ASSISTANCE.  
(A) DOCUMENTATION.—The financial assistance to Native American business centers authorized under this subsection may be made by grant, contract, or cooperative agreement.  
(B) BUSINESS DEVELOPMENT ASSISTANCE RECEPIENTS.—The business development assistance under this subsection to Alaska Native corporations or Native Hawaiian organizations may only be made by grant.  
(E) PAYMENTS.—  
(i) TIMING.—Payments made under this subsection may be disbursed—  
(I) in a single lump sum or in periodic installments;  
(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 entity receiving assistance under paragraph (1) shall submit a 5-year plan to the Administration on proposed assistance and training activities.  
(B) CRITERIA.  
(i) 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 paragraph (A) and the relative importance shall be made publicly available, within a reasonable time, and stated in each solicitation for applications made by the Administration.  
(C) CONDITIONS FOR CONTINUED FUNDING.—  
(i) IN GENERAL.—The Administration shall make annual funding choices based on proposed assistance and training activities.  
(ii) MATCHING REQUIREMENT.—If the information provided under subparagraph (A) is inaccurate, the Administration may withhold funding.  
(iii) INCREASES OR DECREASES.—The Administration shall take into account increases or decreases of Native American small business concerns formed, maintained, and lost;  
(iv) NUMBER OF JOBS.—The number of Native American jobs created, maintained, or lost at assisted small business concerns; and  
(v) GROSS RECEIPTS.—The gross receipts of assisted small business concerns; and  
(vi) INCOME OF ASSISTED ENTITIES.—The income of assisted small business concerns.  
(E) MANAGEMENT REPORT.  
(A) IN GENERAL.—The Administration shall prepare and submit to 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.  
(B) 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; and  
(iii) the gross receipts of assisted concerns; and  
(iv) the employment increases or decreases of Native American small business concerns assisted by the center since receiving funding under this Act;  
(v) the number of new, or the 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 subsection.  
(7) ANNUAL REPORT.—Each entity receiving financial assistance under this subsection shall annually provide 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 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.  
(9) 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; 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 make Native American Development grants to 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) CONDITIONS FOR PARTICIPATION.—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 more than 2 years period and not more than 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 (3)(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 report; 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 participants of the joint application has the ability and resources to meet the needs, including cultural needs, of the participants; (C) information relating to proposed assistance to Native Americans to be served by the grant; (D) a multiyear plan, corresponding to the length of the grant, that describes—

(i) the number of individuals assisted, categorized by ethnicity; (ii) 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) 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; (E) information demonstrating the effective experience of each participant of the joint application in—

(i) conducting financial, management, and marketing assistance programs, as described in paragraph (4) and (ii) 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; (E) information demonstrating the effective experience of each participant of the joint application in—

(i) conducting financial, management, and marketing assistance programs, as described in paragraph (4) and (ii) 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; 

(vi) providing training and services to a representative number of Native Americans; 

(vii) using resource partners of the Administration in other entities, including universities, tribal governments, or tribal colleges; and 

(viii) any other criteria that the Administration determines necessary to achieve the purposes of this section.

(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) 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; (E) information demonstrating the effective experience of each participant of the joint application in—

(i) conducting financial, management, and marketing assistance programs, as described in paragraph (4) and (ii) 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; 

(vi) providing training and services to a representative number of Native Americans; 

(vii) using resource partners of the Administration in other entities, including universities, tribal governments, or tribal colleges; and 

(viii) any other criteria that the Administration determines necessary to achieve the purposes of this section.
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.

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 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 businesses 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 providing business development assistance to 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 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 regions, and require the ONAA Administrator 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; provide technical assistance; establish partnerships; and develop partnerships. The ONAA will be responsible for administering the Native American Development Grant program.

Although underfunded, the TBIC programs have been successful in providing culturally tailored 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, NABCs and NHOs would also be eligible for the grants.

The ONAA 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. Grants would be made available to 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 is 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 legislation at the urging of 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 process is 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 the program 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 Senate in 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—EXPLAINING 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; and

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; and

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; and

WHEREAS the use of religious belief as the primary criteria for repression against Tibetans is a continuing pattern of grave human rights violations that have occurred since the invasion of Tibet in 1949–50; and

WHEREAS the State Department Country Reports on Human Rights Practices for 2001 state 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 on his proposal 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 50th birthday of Gedhun Choekyi Nyima, 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 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 one another. Since the Chinese takeover, religion, 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, 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 persecution. 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 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 stifles dissent, which has resulted in untold cases of arbitrary arrests, imprisonment, torture, 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 with resistance. 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 and 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 an example of freedom and liberty to the rest of the world, their culture are decimated. To turn violence into nonviolence; even while their homeland, their families, their religion, and their culture are decimated. To turn away the suffering 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 THESENATE REGARDING THE RISEOF ANTI-JEWISH VIOLENCE IN OF ANTI-JEWISH VIOLENCE IN EUROPE

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; and

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 burning of 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-Semitic graffiti; 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; Whereas the revitalization of European right wing movements, such as the strong showing of the National Front party in France’s presidential election, reafirm 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 rationalized the problems; 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 Jews and Jewish institutions; Whereas the French Ministry of Interior documented hundreds of crimes against Jews and Jewish institutions in France, including the burning of Jewish schools in Creteil and Marseille, France and even the stoning of a bus carrying Jewish schoolchildren; Where 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 charter schools are public schools authorized by a designated public body and operating on the principles of accountability, parental involvement, choice, and autonomy; Whereas charter schools can be vehicles for improving student academic achievement for the students who have not benefited from traditional 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 rationalization of anti-Semitic attitudes and anti-Semitic 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 European countries 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.


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 charter schools can be vehicles for improving student academic achievement for the students who have not benefited from traditional educational initiatives which foster tolerance, we have seen success; and

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 and worldwide.

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 a 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 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”;

(2) honors the 10th anniversary of the opening of the Nation’s first charter school; and

(3) encourages the Secretary of Education 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; 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; which was 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:

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, water and waste water, and water and wastewater services, is an 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) that 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 to support and maintain 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, the District of Columbia, 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 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, or nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village or Native group, 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 government or Native American group which is served by an electric utility that has 10,000 residents.

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:

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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:
SEC. 944. AUTHORIZATION OF APPROPRIATIONS.

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Text</th>
</tr>
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<tbody>
<tr>
<td>The Secretary is authorized to make grants to rural and remote communities</td>
<td>to carry out activities in accordance with the provisions of the statute. For purposes of assistance under section 947, there are authorized to be appropriated $100,000,000 for each of fiscal years 2003 through 2008.</td>
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SEC. 945. STATEMENT OF ACTIVITIES AND REVIEW.

(a) Statement of Objectives and Projected Use. Each grantee shall submit to the Secretary providing funds for a fiscal year of a grant under section 947 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary, prior to the receipt in any fiscal year of a grant under section 947, a final statement of rural and remote community development activities and projected use of funds.

(b) 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, the Secretary shall 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.

(c) Performance and Evaluation Report. Each grantee shall submit to the Secretary, prior to the receipt in any fiscal year of a grant under section 947, a final 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 the need for such use as determined by the Secretary. The grantee’s report shall indicate its programmatic accomplishments, the nature of and reasons for any changes in the grantee’s programs that may have been necessary, and the estimated cost and benefit of the grantee’s programs as a result of its experiences. The Secretary is authorized to make grants to rural and remote communities to carry out activities in accordance with the provisions of the statute.
(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, community and economic development assistance to eligible units of general local government and eligible Native American groups in rural areas with excessive high rates of outmigration and low per capita income levels.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE 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, or nation, including Alaska Natives, 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.

(a) GENERAL.—The term ‘rural recovery area’ means any geographic area represented by a unit of general local government or a Native American group—

(1) the population—

(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.

(b) 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.

(8) COMMITTEE.—The Secretary may make grants in accordance with this section to eligible units of general local government, Native American groups and eligible Indian tribes, under the provisions 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 questions and comments to the Secretary.

(B) any manner in which the grantee would change the rural development objectives of the grantee as determined by the Secretary.

(2) PERFORMANCE AND EVALUATION REPORT.—

(A) Each grantee shall annually submit to the appropriate Committees a performance and evaluation report on the use of amounts received under this section.

(B) The report must include—

(i) 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;

(ii) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities;

(iii) the development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas;

(iv) activities necessary to develop and implement a comprehensive rural development plan, including participation in the administrative costs related to planning and execution of rural development activities; or

(v) affordable housing initiatives.

(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 any other legal entity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit questions and comments to the Secretary 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) afford residents of the rural recovery area served by the eligible unit of general local government, Native American groups 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

(C) the per capita income is determined by

(1) the income was realized after the initial collection of amounts received under this section; and

(2) the

(A) grantee agrees to utilize the income for 1 or more eligible activities; or

(B) any manner in which the grantee would change the rural development objectives of the grantee as determined by the Secretary.

(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 copy of the grant application submitted under paragraph (1)(B).

(3) information concerning the amount made available to the grantee under this section and the eligible activities to be undertaken with that amount.

(4) reasonable access to records regarding the use of amounts received under this section, and the degree to which the grantee has achieved the rural development objectives of this section, and the degree to which the grantee has achieved the rural development objectives of this section in any preceding fiscal year; and

(5) 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.

(5) PERFORMANCE AND EVALUATION REPORT.—

(1) IN GENERAL.—Each grantee shall annually submit to the appropriate Committees a performance and evaluation report on 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 extent to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);

(B) the nature and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement of the fiscal year; and

(3) any manner in which the grantee would change the rural development objectives of the grantee as determined by the Secretary.

(h) RETENTION OF INCOME.—A grantee may retain any income that is realized from the grant.

(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) any manner in which the grantee would change the rural development objectives of the grantee as determined by the Secretary.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $300,000,000 for each of fiscal years 2003 through 2009.

AUTHORITY FOR COMMITTEES TO MEET

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

COMMITTEE ON ARMED SERVICES

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COMMITTEE ON ARMED SERVICES
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 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 markup on Thursday, April 25, 2002, at 10 a.m., in Dirksen building room 226. The agenda is attached.

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. 10, Corporate and Criminal Fraud Accountability Act of 2002 [Leahy/Daschle/Durbin]


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 Subpoenas

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 during the session of the Senate Finance Committee, Darius Marzec, Stensel Seale, and Elliott Langer, be granted floor privileges during the duration of the energy bill.
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 $55 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 pay claims to their customers. The Administration has also supported this concept. Currently, there is broad bipartisan 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 Governor, I have 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 undersignned view, I 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,

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 Gerlinger 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'Banion 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. 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 is the current 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 position if he is not in the building. If he is not in the building, I will be notified by staff. I will at that time make the consent request.
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 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.)


Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 355.

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 “Día de los Niños: 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 Senate proceed to the immediate consideration of Calendar 355.

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, our children, and parents are 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 catalyst for change, 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;
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 average-sized charter 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 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 for these schools are being well served, 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 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 of 2002 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 communities of change and improvement in all public schools. I am proud to salute these growing communities of change and improvement in all public schools.

WHEREAS charter schools are effectively serving diverse populations, particularly many of the disadvantaged at-risk children that traditional public schools have struggled to educate.

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 their students;

WHEREAS charter school assessments and evaluations are 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, charters 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 all states 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 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 lower performing;

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, 2003, as "National Charter Schools Week";

(2) 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. 296, 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. 296, H.R. 3009, the Andean Trade Preference Act:


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 the mandatory live quorum under rule XXII be waived and that 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 rolcall votes tomorrow. The next rolcall 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.

EXECUTIVE 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 P. WALTER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.
Thursday, April 25, 2002

Daily Digest

HIGHLIGHTS

The House passed H.R. 3231, Barbara Jordan Immigration Reform and Accountability Act.

Senate

Chamber Action

Routine Proceedings, pages S3337–S3457

Measures Introduced: Eighty-six bills and three resolutions were introduced, as follows: S. 2250–2335, and S. Res. 252–254. Pages S3433–S35

Measures Reported:

S. 864, 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, with an amendment in the nature of a substitute. (S. Rept. No. 107–144)

H.R. 495, 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, to designate the Federal building located at 143 West, Liberty Street, Medina, Ohio, as the “Donald J. Pease Federal Building.”

H.R. 3093, 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, 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”.

S. Res. 109, 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”, with an amendment.

S. Res. 245, designating the week of May 5 through May 11, 2002, as “National Occupational Safety and Health Week”.

S. Res. 249, designating April 30, 2002, as “Dia de los Ninos: Celebrating Young Americans”.

S. 410, 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.

S. 1721, 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”, with amendments.

S. 1974, to make needed reforms in the Federal Bureau of Investigation, with an amendment in the nature of a substitute.

S. Con. Res. 102, proclaiming the week of May 4 through May 11, 2002, as “National Safe Kids Week”.

Measures Passed:

Energy Policy Act: By 88 yeas to 11 nays (Vote No. 94), Senate passed 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, after striking all after the enacting clause and inserting in lieu thereof the text of S. 517, Senate companion measure, as amended, and after taking action on the following amendments proposed thereto: Pages S3342–S3418

Adopted:

Bingaman (for Fitzgerald) Amendment No. 3258 (to Amendment No. 2917), to strike the provision authorizing loan guarantees for an Alaska natural gas transportation project. Page S3360

Subsequently, the adoption was vitiated.

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

Bingaman (for Baucus) Amendment No. 3082 (to Amendment No. 2917), to provide that certain gasoline and diesel fuel be treated as entered into the customs territory of the United States.

Bingaman (for Breaux) Amendment No. 3130 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles.

Bingaman (for Harkin) Amendment No. 3331 (to Amendment No. 2917), to further encourage development of hydrogen refueling infrastructure.

Bingaman (for Gramm) Amendment No. 3336 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to provide for nonrecognition of gain 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.

Reid Amendment No. 3338 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to modify energy credit for combined heat and power system property.

Bingaman (for Baucus) Amendment No. 3349 (to Amendment No. 2917), to modify the credit for the production of fuel from nonconventional sources regarding refined coal.

Bingaman (for Baucus) Amendment No. 3350 (to Amendment No. 2917), to modify the credit for the production of electricity to include small irrigation power.

Bingaman (for Baucus) Amendment No. 3351 (to Amendment No. 2917), to modify the credit for residential energy efficient property by substituting natural gas furnaces for natural gas heat pumps.

Bingaman (for Baucus/Grassley) Amendment No. 3352 (to Amendment No. 2917), to modify the incentives for biodiesel.

Bingaman (for Baucus) Amendment No. 3353 (to Amendment No. 2917), 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.

Bingaman (for Hollings) Amendment No. 3356 (to Amendment No. 2917), to apply temporary regulations to certain output contracts.

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.

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.

Murray/Cantwell Amendment No. 3326, to modify the specifications for a fuel cell power plant eligible for the extension of the energy tax credit.

By 52 yeas to 47 nays (Vote No. 89), 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.

Reid (for Brownback) Modified Amendment No. 3239 (to Amendment No. 2917), to establish a greenhouse gas inventory, reductions registry, and information system.

Bingaman (for Lincoln) Amendment No. 3343 (to Amendment No. 2917), to modify the credit for the production of fuel from nonconventional sources to include production of fuel from agricultural and animal waste.

Bingaman (for Lincoln) Amendment No. 3344 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to clarify excise tax exemptions for agricultural aerial applicators.

Murkowski Amendment No. 3362 (to Amendment No. 2917), to amend the Internal Revenue Code to modify the definition of Rural Airport.

Murkowski Amendment No. 3363 (to Amendment No. 2917), to amend the Internal Revenue Code to exempt small seaplanes from ticket taxes.

Reid (for Kohl) Modified Amendment No. 3346 (to Amendment No. 2917), to modify the credit for the production of electricity to include municipal biosolids and recycled sludge.

Reid (for Sessions) Modified Amendment No. 3335 (to Amendment No. 2917), 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.

Reid (for Thomas) Amendment No. 3364 (to Amendment No. 2917), 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.

Bingaman (for Torricelli) Amendment No. 3360 (to Amendment No. 2917), to provide incentives for...
water conservation through the installation of water
submeters. Page S3397

Reid (for Conrad/Smith (NH)) Modified Amendment
No. 3209 (to Amendment No. 2917), to carry out
pilot programs that aid accurate carbon storage and
sequestration accounting. Pages S3397–98

Bingaman (for Wyden) Amendment No. 3230 (to
Amendment No. 2917), to provide additional bor-
rowing 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. Pages S3398–99

Reid (for Levin) Amendment No. 3366 (to
Amendment No. 2917), to modify the incentives for
alternative fuel motor vehicles and refueling prop-
erties. Page S3399

Daschle/Bingaman Further Modified Amendment
No. 2917, in the nature of a substitute. Pages S3342–S3418

Rejected:

Reid (for Boxer) Amendment No. 3419 (to
Amendment No. 2917), to provide for equal liability
treatment of vehicle fuels and fuel additives. (By 57
yeas to 42 nays (Vote No. 87), Senate tabled the
amendment.) Pages S3364

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. (By 60 yeas to 39 nays (Vote No. 88),
Senate tabled the amendment.) Pages S3351–54, S3364

Reid (for Kyl) Amendment No. 3532 (to Amend-
ment No. 2917), to strike the extension of the credit
for producing electricity from wind. Pages S3354, S3386–88

Carper Amendment No. 3198 (to Amendment
No. 2917), to decrease the United States dependence
on imported oil by the year 2015. (By 57 yeas to
42 nays (Vote No. 90), Senate tabled the amend-
ment.) Pages S3371–81, S3390–91

Reid (for Kyl) Amendment No. 3333 (to Amend-
ment No. 2917), to strike the provisions relating to
alternative vehicles and fuels incentives. (By 91 yeas
to 8 nays (Vote No. 91), Senate tabled the amend-
ment.) Pages S3354, S3382–86, S3391–92

Reid (for Graham) Amendment No. 3570 (to
Amendment No. 2917), to strike section 2508 of
Division H (relating to energy tax incentives). (By
73 yeas to 26 nays (Vote No. 92), Senate tabled the
amendment.) Pages S3354, S3388–90, S3392–93

Reid (for Graham) Amendment No. 3372 (to
Amendment No. 2917), to limit the effective dates
of the provisions of Division H (relating to energy
tax incentives). (By 70 yeas to 29 nays (Vote No.
93), Senate tabled the amendment.) Pages S3354, S3388, S3393

Withdrawn:

Murkowski/Breaux/Stevens Amendment No. 3132
(to Amendment No. 2917), to create jobs for Ameri-
cans, to reduce dependence on foreign sources of
crude oil and energy, to strengthen the economic self
determination of the Inupiat Eskimos and to pro-
mote national security. Page S3351

Reid (for Hagel) Further Modified Amendment
No. 3146 (to Amendment No. 2917), to establish a
national registry for accurate and reliable reports of
greenhouse gas emissions, and to further encourage
voluntary reductions in such emissions. Pages S3354, S3157–59, S3395

During consideration of this measure, Senate also
took the following actions:

Reid (for Boxer) Amendment No. 3311 (to
Amendment No. 3139), to provide for equal liability
treatment of vehicle fuels and fuel additives, fell
when Amendment No. 3139 (listed above), was ta-
bled. Pages S3342–51

Senate vitiated the March 21, 2002 adoption of
Bingaman Amendment No. 3059 (to Amendment
No. 2917), to authorize rural and remote community
electrification grants. Page S3397

Senate insisted on its amendment, requested a
conference with the House thereon, and the Chair
was authorized to appoint conferees on the part of
the Senate. Page S3418

Subsequently, S. 517 was returned to the Senate
Calendar. Page S3417

Dia de los Ninos: Celebrating Young Amer-
icans: Senate agreed to S. Res. 249, designating April
30, 2002, as "Dia de los Ninos: Celebrating Young
Americans". Pages S3455–56

National Charter Schools Week: Senate agreed to
S. Res. 254, designating April 29, 2002, through
May 3, 2002, as "National Charter Schools Week".
Pages S3449–50, S3456–57

Andean Trade Preference Expansion Act: Senate
began consideration of the motion to proceed to con-
sideration of H.R. 3009, to extend the Andean
Trade Preference Act, to grant additional trade benefits under that Act.

A motion was entered to close further debate on the motion to proceed to consideration of the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur at 6 p.m., on Monday, April 29, 2002.

A unanimous-consent agreement was reached providing for further consideration of the motion to proceed to consideration of the bill at 10 a.m., on Friday, April 26, 2002.

Nominations Confirmed: Senate confirmed the following nominations:

- By unanimous vote of 99 yeas (Vote No. Ex. 85), Percy Anderson, of California, to be United States District Judge for the Central District of California.
  - Pages S3338, S3457
- By unanimous vote of 99 yeas (Vote No. Ex. 86), John F. Walter, of California, to be United States District Judge for the Central District of California.
  - Pages S3338, S3457
- By unanimous vote of 99 yeas (Vote No. Ex. 95), Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota.
  - Pages S3418–19, S3457
- By unanimous vote of 97 yeas (Vote No. Ex. 96), William C. Griesbach, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.
  - Pages S3419–20, S3457

Nominations Received: Senate received the following nominations:

- Richard M. Russell, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.
  - Page S3457
- James Franklin Jeffrey, of Virginia, to be Ambassador to the Republic of Albania.
- Mark Sullivan, of Maryland, to be United States Director of the European Bank for Reconstruction and Development.
  - Page S3457

Messages From the House:

Measures Referred:

Executive Communications:

Petitions and Memorials:

Executive Reports of Committees:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Additional Statements:

Amendments Submitted:

Authority for Committees to Meet:

Privilege of the Floor:

Record Votes: Twelve record votes were taken today. (Total — 96)

Pages S3338, S3364, S3390, S3391–94, S3417, S3419, S3420

Adjournment: Senate met at 9:30 a.m., and adjourned at 7:37 p.m., until 10 a.m., on Friday, April 26, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today’s Record on page S3457).

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS — FOREST SERVICE

Committee on Appropriations: Subcommittee on Interior concluded hearings on proposed budget estimates for fiscal year 2003 for the Forest Service, after receiving testimony from Dale N. Bosworth, Chief, Forest Service, Department of Agriculture.

COOPERATIVE THREAT REDUCTION PROGRAM BRIEFING

Committee on Armed Services: Committee met 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 from representatives of the Department of Defense, Department of Energy, Department of State, and the Central Intelligence Agency.

TRANSPORTATION EQUITY ACT

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation concluded hearings on proposed legislation authorizing funds for the Transportation Equity Act for the 21st Century (TEA-21), after receiving testimony from Jennifer L. Dorn, Administrator, Federal Transit Administration, Department of Transportation; Faye L. Moore, Southeastern Pennsylvania Transportation Authority, Philadelphia; Beverly A. Scott, Rhode Island Public Transit Authority, Providence; and Larry Worth, Northeast Colorado Association of Local Governments, Ft. Morgan.

ONLINE PERSONAL PRIVACY ACT

Committee on Commerce, Science, and Transportation: Committee concluded hearings on S. 2201, to protect the online privacy of individuals who use the Internet, after receiving testimony from Barbara Lawler, Hewlett Packard Company, Marc Rotenberg, Electronic Privacy Information Center, Paul Misener, Amazon.com, Frank Torres, Consumers Union, and John C. Dugan, Covington and Burling, on behalf of the Financial Services Coordinating Council, all of Washington, D.C.
NOMINATION
Committee on Commerce, Science, and Transportation: Committee concluded hearings on the nomination of Harold D. Stratton, of New Mexico, to be Commissioner and Chairman of the Consumer Product Safety Commission, after the nominee, who was introduced by Senator Domenici, testified and answered questions in his own behalf.

BUSINESS MEETING
Committee on Environment and Public Works: Committee order favorably reported the following bills:
- S. 975, to improve environmental policy by providing assistance for State and tribal land use planning, to promote improved quality of life, regionalism, and sustainable economic development, with an amendment in the nature of a substitute;
- S. 1079, to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites, with an amendment in the nature of a substitute;
- S. 1646, to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System;
- S. 2024, to amend title 23, United States Code, to authorize use of electric personal assistive mobility device on trails and pedestrian walkways constructed or maintained with Federal-aid highway funds;
- S. 2064, to reauthorize the United States Institute for Environmental Conflict Resolution;
- H.R. 3480, to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin;
- S. 1721, 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”, with an amendment;
- H.R. 495, 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, to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the “Donald J. Pease Federal Building”;
- H.R. 3093, 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”; and
- H.R. 3282, 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”.

WELFARE REFORM
Committee on Finance: Subcommittee on Social Security and Family Policy concluded hearings on proposed legislation authorizing funds for the Temporary Assistance for Needy Families (TANF) Program, created by the Welfare Reform Law of 1996, focusing on helping hard-to-employ families successfully transition from welfare to work, after receiving testimony from Natasha K. Metcalf, Tennessee Department of Human Services, Nashville; Stephanie Smith, Goodwill Industries of Southern Arizona, Tucson; David Butler, Manpower Demonstration Research Corporation, New York, New York; and Michelle Laureano, Patterson, New Jersey.

INDIVIDUALS WITH DISABILITIES
EDUCATION
Committee on Health, Education, Labor, and Pensions: Committee concluded hearings to examine the implementation of the Individuals With Disabilities Education Act (IDEA), focusing on behavioral support in schools to ensure safe schools for students and teachers while protecting the rights of students with disabilities, after receiving testimony from Ronnie M. Jackson, Dale County School District, Ozark, Alabama; Kathleen B. Boudry, Center for Law and Education, Boston, Massachusetts; George Sugai, University of Oregon Center on Positive Behavioral Interventions and Supports, Eugene; Marsha Weissman, Center for Community Alternatives, Syracuse, New York; and Sarah A. Flanagan, Falls Church, Virginia.

WOMEN’S HEALTH
Committee on Health, Education, Labor, and Pensions: Subcommittee on Public Health concluded hearings to examine women’s health issues, including the role of the Department of Health and Human Services in improving the health of women and making prevention a centerpiece, after receiving testimony from Eve E. Slater, Assistant Secretary for Health, and James S. Marks, Director, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, both of the Department of Health and Human Services; Carolyn M. Maze, Yale University School of Medicine, New Haven, Connecticut, on behalf of the Women’s Health Research Coalition; Marlene B. Jezierski, Allina Hospitals and Clinics, Minneapolis, Minnesota; Thomas Gellhaus, Obstetrics and Gynecology Specialists, Davenport, Iowa, on behalf of the American College of Obstetricians and Gynecologists; and Alice Ammerman, University of North Carolina Schools of Public Health and Medicine, Chapel Hill, on behalf of the WISEWOMAN Program.
CONGRESSIONAL RECORD
—
DAILY DIGEST

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 2010, to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, with an amendment in the nature of a substitute;

S. 1974, to make needed reforms in the Federal Bureau of Investigation, with an amendment in the nature of a substitute;

S. 410, to amend the Violence Against Women Act of 2000 by expanding the legal assistance for victims of violence grant program to include legal assistance for victims of dating violence;

S. Res. 245, designating the week of May 5 through May 11, 2002, as “National Occupational Safety and Health Week”;

S. Res. 109, 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”, with an amendment;

S. Res. 249, designating April 30, 2002, as “Dia de los Ninos: Celebrating Young Americans”; and

The nominations of Gorden Edward Eden, Jr., to be United States Marshal for the District of New Mexico, David Phillip Gonzales, to be United States Marshal for the District of Arizona, Ronald Henderson, to be United States Marshal for the Eastern District of Missouri, John Lee Moore, to be United States Marshal for the Eastern District of Texas, John Edward Quinn, to be United States Marshal for the Northern District of Iowa, Charles M. Sheer, to be United States Marshal for the Western District of Missouri, and Edward Zahren, to be United States Marshal for the District of Colorado, all of the Department of Justice.

Also, committee approved a committee resolution to authorize the issuance of a subpoena with respect to the forthcoming hearings of the Subcommittee on Antitrust, Competition, and Business and Consumer Rights on the subject of hospital group purchasing.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, Leonard E. Davis, to be United States District Judge for the Eastern District of Texas, David C. Godbey, to be United States District Judge for the Northern District of Texas, Andrew S. Hanen, to be United States District Judge for the Southern District of Texas, Samuel H. Mays, Jr., to be United States District Judge for the Western District of Tennessee, Thomas M. Rose, to be United States District Judge for the Southern District of Ohio, after the nominees testified and answered questions in their own behalf. Ms. Gibbons and Mr. Mays were introduced by Senators Frist and Thompson, Mr. Davis was introduced by Senators Hutchison and Gramm, and Representatives Ford Jr., Sandlin, and Hall, Mr. Godbey and Mr. Hanen were introduced by Senators Hutchison and Gramm, and Representatives Ford, Jr., and Sandlin, and Mr. Rose was introduced by Senator DeWine, and Representative Hobson.

VA NURSING HOME CARE OPTIONS

Committee on Veterans’ Affairs: Committee concluded hearings to examine the Veterans’ Association’s expansion of noninstitutional long-term care services in response to the Veterans Millennium Health Care and Benefits Act, as well as the types of noninstitutional long-term services being offered, after receiving testimony from Cynthia A. Bascetta, Director, Health Care-Veterans’ Health and Benefits Issues, General Accounting Office; Robert H. Roswell, Under Secretary of Veterans Affairs for Health; Gladys M. Dickerson, VA North Texas Health Care Systems, Dallas; Jennifer Moye, Harvard Medical School Department of Psychiatry, Boston, on behalf of the VA Medical Center Geriatric Mental Health Clinic/Unified Psychogeriatric Biopsychosocial Evaluation and Treatment (UPBEAT) program; Paula Hemmings, New York Veterans Integrated Services Network, Albany, on behalf of the Alzheimer’s Association; and Thomas G. McClure, Central Arkansas Veterans Healthcare System, Little Rock.

BUSINESS MEETING

Select Committee on Intelligence: Committee ordered favorably reported the nomination of John Leonard Helgerson, of Virginia, to be Inspector General, Central Intelligence Agency.
House of Representatives

Chamber Action

Measures Introduced: 27 public bills, H.R. 4589–4615; 1 private bill, H.R. 4616; and 8 resolutions, H.J. Res. 90, H. Con. Res. 386–388, and H. Res. 397–400 were introduced.

Pages H1672–74

Reports Filed: Reports were filed as follows:

H.R. 3994, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries, amended (H. Rept. 107–420).

Page H1672

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative LaTourette to act as Speaker pro tempore for today.

Page H1621

Guest Chaplain: The prayer was offered by the guest chaplain, Dr. Paul Dixon, President, Cedarville University of Cedarville, Ohio.

Page H1621

Journal: Agreed to the Speaker’s approval of the Journal of Wednesday, April 24, by a recorded vote of 372 ayes to 47 noes with 1 voting “present”, Roll No. 113.

Page H1632

Barbara Jordan Immigration Reform and Accountability Act: The House passed H.R. 3231, to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs by a recorded vote of 405 ayes to 9 noes, Roll No. 116.

Pages H1632–66

The title was amended so as to read: “A bill to replace the Immigration and Naturalization Service with the Office of the Associate Attorney General for Immigration Affairs, Bureau of Citizenship and Immigration Service, and the Bureau of Immigration Enforcement, and for other purposes.”

Page H1666

Agreed to the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill, H. Rept. 107–413, and made in order by the rule.

Page H1666

Agreed To:

Sensenbrenner amendment No. 1 printed in H. Rept. 107–419 that authorizes additional personnel flexibility including a managerial rotation program, employee voluntary separation incentive payments or buy-outs, and a demonstration project relating to employee disciplinary actions;

Pages H1650–51

Baldwin amendment No. 2 printed in H. Rept. 107–419 that requires a study by the Office of Children’s Affairs on independent legal counsel for unaccompanied alien children;

Pages H1651–53

Jackson-Lee amendment No. 3 printed in H. Rept. 107–419 that requires a GAO report on the fee structure of the Bureau of Citizenship and Immigration Services and its sufficiency to carry out its functions in the absence of appropriated funds;

Pages H1653–54

Roybal-Allard amendment No. 4 printed in H. Rept. 107–419 that requires the Office of Immigration Statistics to maintain region-by-region statistics on denials of applications and petitions and the reasons for such denials; and

Pages H1654–55

Velazquez amendment No. 5 printed in H. Rept. 107–419 that authorizes the Director of the Bureau of Citizenship and Immigration Services to conduct innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications and to prevent any backlog from recurring.

Pages H1655–56

Rejected:

Issa amendment No. 6 printed in H. Rept. 107–419 that sought to place the civil service positions in the Office of the Associate Attorney General for Immigration Affairs, Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement in the excepted service as defined by section 2103 of title 5, United States Code and eliminate restrictions on certain disciplinary and other adverse actions taken against employees (rejected by a recorded vote of 145 ayes to 272 noes, Roll No. 114); and

Pages H1656–65

Lofgren amendment No. 7 printed in H. Rept. 107–419 that sought to authorize expedited procedures for procurement of information technology (rejected by a recorded vote of 105 ayes to 312 noes, Roll No. 115).

Pages H1661–66

H. Res. 396, the rule that provided for consideration of the bill was agreed to by a recorded vote of 388 ayes to 34 noes, Roll No. 112. Agreed to order the previous question by a yea-and-nay vote of 384 yeas to 36 nays, Roll No. 111.

Pages H1625–32

Legislative Program: Representative Portman announced the Legislative Program for the week of April 29.

Page H1667

Consideration of Suspension on May 1: Agreed that it be in order at any time on Wednesday, May 1 for the Speaker to entertain a motion that the House suspend the rules relating to H.R. 2604, replenishment of Asian Development Fund and International Fund for Agricultural Development resources and additional policies towards the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American
Development Bank, and the European Bank for Reconstruction and Development.

Meeting Hour — Monday, April 29: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, April 29.

Meeting Hour — Tuesday, April 30: Agreed that when the House adjourns on Monday, April 29, it adjourn to meet at 12:30 p.m. on Tuesday, April 30 for morning hour debate.

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, May 1.

Senate Messages: Messages received from the Senate today appear on page H1621.

Referral: S. 2248 was held at the desk.

Quorum Calls — Votes: One yea-and-nay vote and five recorded votes developed during the proceedings of the House today and appear on pages H1630–31, H1631–32, H1632, H1664–65, H1665–66, and H1666. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 3:50 p.m.

Committee Meetings

DEFENSE APPROPRIATIONS
Committee on Appropriations: Subcommittee on Defense met in executive session to hold a hearing on National Foreign Intelligence Program. Testimony was heard from Jane Dempsey, Deputy Director, CIA; and George Tenet, former Director, CIA.

DISTRICT OF COLUMBIA APPROPRIATIONS
Committee on Appropriations: Subcommittee on District of Columbia held a hearing on D.C. Public Schools and D.C. Charter Schools. Testimony was heard from the following officials of the District of Columbia: Peggy Cooper Cafritz, President, Board of Education; Paul Vance, Superintendent, Public Schools; Josephine Baker, Chair, Public Charter School Board; and Laurent Ross, Director, Tuition Assistance Grant Program; Col. Charles J. Fiala, Jr., USA, Commander and District Engineer, Baltimore District, U.S. Army Corps of Engineers; David E. Cooper, Director, Acquisition and Sourcing Management Team, GAO; and public witnesses.

LABOR, HHS AND EDUCATION APPROPRIATIONS
Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on Department of Education Panel: Transition into the Workforce. Testimony was heard from the following officials of the Department of Education: Susan B. Neuman, Assistant Secretary, Elementary and Secondary Education; Robert H. Pasternack, Assistant Secretary, Special Education and Rehabilitative Services; Carol D’Amico, Assistant Secretary, Vocational and Adult Education; Sally Stroup, Assistant Secretary, Postsecondary Education; Grover J. Whitehurst, Assistant Secretary, Educational Research and Improvement; and Thomas P. Skelly, Director, Budget Service.

LEGISLATIVE APPROPRIATIONS
Committee on Appropriations: Subcommittee on Legislative held a hearing on Architect of the Capitol, and on CBO. Testimony was heard from Alan M. Hantman, Architect of the Capitol; and Dan L. Crippen, Director, CBO.

NATIONAL DEFENSE AUTHORIZATION ACT

NATIONAL DEFENSE AUTHORIZATION ACT

NATIONAL DEFENSE AUTHORIZATION ACT

RESTORING BUDGET DISCIPLINE
Committee on the Budget: Held a hearing on the Predictability and Control Twin Reasons for Restoring Budget Disciplines. Testimony was heard from Susan J. Irving, Director, Federal Budget Analysis, GAO; Barry B. Anderson, Deputy Director, CBO; former Representative William Frenzel of Minnesota; and public witnesses.

CITIZEN SERVICE IN THE 21ST CENTURY
Committee on Education and the Workforce: Subcommittee on Select Education held a hearing on Citizen Service in the 21st Century. Testimony was heard from Representatives Shays, Ford and Osborne; and public witnesses.

REDUCE ERGONOMIC INJURIES — OSHA’s PLAN
Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing
on A Review of OSHA’s Plan to Reduce Ergonomic Injuries. Testimony was heard from John Henshaw, Assistant Secretary, Occupational Safety and Health, Department of Labor.

**YUCCA MOUNTAIN REPOSITORY — RADIOACTIVE WASTE**

Committee on Energy and Commerce: Ordered reported H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Policy Act of 1982.

**DIGITAL AGE — ENSURING CONTENT PROTECTION**

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing entitled “Ensuring Content Protection in the Digital Age.” Testimony was heard from public witnesses.

**FINANCIAL SERVICES REGULATORY RELIEF ACT**

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit continued hearings on H.R. 3951, Financial Services Regulatory Relief Act of 2002. Testimony was heard from public witnesses.

**FEDERAL WORK FORCE SECURITY**

Committee on Government Reform: Subcommittee on Technology and Procurement Policy held a hearing on Ensuring the Safety of our Federal Workforce: GSA’s Use of Technology to Secure Federal Buildings. Testimony was heard from Keith A. Rhodes, Chief Technologist, GAO; the following officials of the GSA: F. Joseph Moravec, Commissioner, Public Buildings Service; and Wendell Shingler, Director, Federal Protective Service; John N. Jester, Chief, Defense Protective Service, Department of Defense; and public witnesses.

**MISCELLANEOUS MEASURES**

Committee on International Relations: Ordered reported, as amended, the following bills: H.R. 4073, to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts; and H.R. 3969, Freedom Promotion Act of 2002.

**OVERSIGHT — NATIONAL PARK SERVICE MANAGEMENT POLICIES**

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held an oversight hearing on the 2001 National Park Service Management Policies. Testimony was heard from Fran Mainella, Director, National Park Service, Department of the Interior.

**YUCCA MOUNTAIN STORAGE FACILITY — TRANSPORTATION OF SPENT RODS**

Committee on Transportation and Infrastructure: Subcommittee on Highways and Transit and the Subcommittee on Railroads held a joint hearing on Transportation of Spent Rods to the Proposed Yucca Mountain Storage Facility. Testimony was heard from Senator Ensign; Representatives Gibbons and Kucinich; the following officials of the Department of Transportation: Ellen G. Engleman, Administrator, Research and Special Programs Administration; and Allan Rutter, Administrator, Federal Railroad Administration; Lake Barrett, Deputy Director, Office of Civilian Radioactive Waste Management, Department of Energy; Carl J. Paperiello, Deputy Executive Director, Operations, NRC; the following officials of the State of Nevada: Kenny Guinn, Governor; Jon C. Porter, member, Senate; and Dario Herrera, Chairman, Clark County Commission; and public witnesses.

**SOCIAL SECURITY PROGRAM PROTECTION ACT**

Committee on Ways and Means: Subcommittee on Social Security approved for full Committee action, as amended, H.R. 4070, Social Security Program Protection Act of 2002.

**LATIN AMERICA ISSUES**

Permanent Select Committee on Intelligence: Subcommittee on Intelligence Policy and National Security and the Subcommittee on Human Intelligence, Analysis and Counterintelligence met in executive session to hold a joint hearing on Latin America Issues. Testimony was heard from departmental witnesses.

**COMMITTEE MEETINGS FOR FRIDAY, APRIL 26, 2002**

(Committee meetings are open unless otherwise indicated)

**Senate**

Committee on Armed Services: to hold hearings on the nomination of Adm. Thomas B. Fargo, USN, to be Admiral and Commander in Chief, United States Pacific Command; and the nomination of Lt. Gen. Leon J. LaPorte, USA, to be General and Commander in Chief,
United Nations Command/Combined Forces Command/Commander, United States Forces Korea, 9:30 a.m., SR–222.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families, to hold hearings to examine families and funeral practices issues, 10 a.m., SD–430.

House

No committee meetings are scheduled.
Program for Friday: Senate will continue consideration of the motion to proceed to consideration of H.R. 3009, Andean Trade Preference Expansion Act.
1 or more States to waive the renewable fuel content requirement.

Bingaman (for Baucus) Amendment No. 3082 (to Amendment No. 2917), to provide that certain gasoline and diesel fuel be treated as entered into the customs territory of the United States.

Pages S3354, S3359–60

Bingaman (for Breaux) Amendment No. 3130 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles.

Bingaman (for Harkin) Amendment No. 3331 (to Amendment No. 2917), to further encourage development of hydrogen refueling infrastructure.

Bingaman (for Gramm) Amendment No. 3336 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to provide for nonrecognition of gain 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.

Reid Amendment No. 3338 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to modify energy credit for combined heat and power system property.

Bingaman (for Baucus) Amendment No. 3349 (to Amendment No. 2917), to modify the credit for the production of fuel from nonconventional sources regarding refined coal.

Bingaman (for Baucus) Amendment No. 3350 (to Amendment No. 2917), to modify the credit for the production of electricity to include small irrigation power.

Bingaman (for Baucus) Amendment No. 3351 (to Amendment No. 2917), to modify the credit for residential energy efficient property by substituting natural gas furnaces for natural gas heat pumps.

Bingaman (for Baucus/Grassley) Amendment No. 3352 (to Amendment No. 2917), to modify the incentives for biodiesel.

Bingaman (for Baucus) Amendment No. 3353 (to Amendment No. 2917), 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.

Bingaman (for Hollings) Amendment No. 3356 (to Amendment No. 2917), to apply temporary regulations to certain output contracts.

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.

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.

Murray/Cantwell Amendment No. 3326, to modify the specifications for a fuel cell power plant eligible for the extension of the energy tax credit.

By 52 yeas to 47 nays (Vote No. 89), 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.

Reid (for Brownback) Modified Amendment No. 3239 (to Amendment No. 2917), to establish a greenhouse gas inventory, reductions registry, and information system.

Bingaman (for Lincoln) Amendment No. 3343 (to Amendment No. 2917), to modify the credit for the production of fuel from nonconventional sources to include production of fuel from agricultural and animal waste.

Bingaman (for Lincoln) Amendment No. 3344 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to clarify excise tax exemptions for agricultural aerial applicators.

Murkowski Amendment No. 3362 (to Amendment No. 2917), to amend the Internal Revenue Code to modify the definition of Rural Airport.

Murkowski Amendment No. 3363 (to Amendment No. 2917), to amend the Internal Revenue Code to exempt small seaplanes from ticket taxes.

Reid (for Kohl) Modified Amendment No. 3346 (to Amendment No. 2917), to modify the credit for the production of electricity to include municipal biosolids and recycled sludge.

Reid (for Sessions) Modified Amendment No. 3335 (to Amendment No. 2917), 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.

Pages S3354, S3360, S3397

Reid (for Thomas) Amendment No. 3364 (to Amendment No. 2917), 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.

Bingaman (for Torricelli) Amendment No. 3360 (to Amendment No. 2917), to provide incentives for...
water conservation through the installation of water submeters.  

Reid (for Conrad/Smith (NH)) Modified Amendment No. 3355 (to Amendment No. 2917), to amend the Internal Revenue Code of 1986 to extend the energy credit to stationary microturbine power plants.  

Pages S3354, S3359–60, S3395

Bingaman Amendment No. 3380 (to Amendment No. 2917), to decrease the United States dependence on imported oil by the year 2015. (By 57 yeas to 42 nays (Vote No. 90), Senate tabled the amendment.)  

Page S3397

Bingaman (for Johnson) Modified Amendment No. 3196 (to Amendment No. 2917), to provide for the investment in, the enhancement of, and the efficiency of electric power transmission systems.  

Page S3397

Bingaman (for Wellstone) Modified Amendment No. 3209 (to Amendment No. 2917), to carry out pilot programs that aid accurate carbon storage and sequestration accounting.  

Pages S3397–98

Bingaman (for Wyden) Amendment No. 3230 (to Amendment No. 2917), 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.  

Pages S3398–99

Reid (for Levin) Amendment No. 3366 (to Amendment No. 2917), to modify the incentives for alternative fuel motor vehicles and refueling properties.  

Page S3399

Daschle/Bingaman Further Modified Amendment No. 2917, in the nature of a substitute.  

Pages S3342–S3418

Rejected:

Reid (for Boxer) Amendment No. 3139 (to Amendment No. 2917), to provide for equal liability treatment of vehicle fuels and fuel additives. (By 57 yeas to 42 nays (Vote No. 87), Senate tabled the amendment.)  

Page S3364

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. (By 60 yeas to 39 nays (Vote No. 88), Senate tabled the amendment.)  

Pages S3351–54, S3364

Reid (for Kyl) Amendment No. 3332 (to Amendment No. 2917), to strike the extension of the credit for producing electricity from wind.  

Pages S3354, S3386–88

Carper Amendment No. 3198 (to Amendment No. 2917), to decrease the United States dependence on imported oil by the year 2015. (By 57 yeas to 42 nays (Vote No. 90), Senate tabled the amendment.)  

Pages S3371–81, S3390–91

Reid (for Kyl) Amendment No. 3333 (to Amendment No. 2917), to strike the provisions relating to alternative vehicles and fuels incentives. (By 91 yeas to 8 nays (Vote No. 91), Senate tabled the amendment.)  

Pages S3354, S3382–86, S3391–92

Reid (for Graham) Amendment No. 3370 (to Amendment No. 2917), to strike section 2308 of Division H (relating to energy tax incentives). (By 73 yeas to 26 nays (Vote No. 92), Senate tabled the amendment.)  

Pages S3354, S3388–90, S3392–93

Reid (for Graham) Amendment No. 3372 (to Amendment No. 2917), to limit the effective dates of the provisions of Division H (relating to energy tax incentives). (By 70 yeas to 29 nays (Vote No. 93), Senate tabled the amendment.)  

Pages S3354, S3388, S3393

Withdrawn:

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.  

Page S3351

Reid (for Hagel) Further Modified Amendment No. 3146 (to Amendment No. 2917), to establish a national registry for accurate and reliable reports of greenhouse gas emissions, and to further encourage voluntary reductions in such emissions.  

Pages S3354, S3157–59, S3395

During consideration of this measure, Senate also took the following actions:

Reid (for Boxer) Amendment No. 3311 (to Amendment No. 3139), to provide for equal liability treatment of vehicle fuels and fuel additives, fell when Amendment No. 3139 (listed above), was tabled.  

Pages S3342–51

Senate vitiated the March 21, 2002 adoption of Bingaman Amendment No. 3059 (to Amendment No. 2917), to authorize rural and remote community electrification grants.  

Page S3397

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint conferees on the part of the Senate.  

Page S3418

Subsequently, S. 517 was returned to the Senate Calendar.  

Page S3417

Dia de los Ninos: Celebrating Young Americans: Senate agreed to S. Res. 249, designating April 30, 2002, as “Dia de los Ninos: Celebrating Young Americans”.  

Pages S3455–56


Pages S3449–50, S3456–57

Andean Trade Preference Expansion Act: Senate began consideration of the motion to proceed to consideration of H.R. 3009, to extend the Andean
Trade Preference Act, to grant additional trade benefits under that Act.

Page S3457

A motion was entered to close further debate on the motion to proceed to consideration of the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur at 6 p.m., on Monday, April 29, 2002.

Page S3457

A unanimous-consent agreement was reached providing for further consideration of the motion to proceed to consideration of the bill at 10 a.m., on Friday, April 26, 2002.

Page S3457

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 99 yeas (Vote No. Ex. 85), Percy Anderson, of California, to be United States District Judge for the Central District of California.

Pages S3338, S3457

By unanimous vote of 99 yeas (Vote No. Ex. 86), John F. Walter, of California, to be United States District Judge for the Central District of California.

Pages S3338, S3457

By unanimous vote of 99 yeas (Vote No. Ex. 95), Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota.

Pages S3418–19, S3457

By unanimous vote of 97 yeas (Vote No. Ex. 96), William C. Griesbach, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

Pages S3419–20, S3457

Nominations Received: Senate received the following nominations:

Richard M. Russell, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

James Franklin Jeffrey, of Virginia, to be Ambassador to the Republic of Albania.

Mark Sullivan, of Maryland, to be United States Director of the European Bank for Reconstruction and Development.

Page S3457

Messages From the House:

Page S3432

Measures Referred:

Page S3432

Executive Communications:

Page S3432

Petitions and Memorials:

Pages S3432–33

Executive Reports of Committees:

Page S3433

Additional Cosponsors:

Pages S3435–36

Statements on Introduced Bills/Resolutions:

Pages S3436–49

Additional Statements:

Pages S3427–32

Amendments Submitted:

Pages S3450–52

Authority for Committees to Meet:

Pages S3452–53

Privilege of the Floor:

Pages S3453–54

Record Votes: Twelve record votes were taken today. (Total — 96)

Pages S3338, S3364, S3390, S3391–94, S3417, S3419, S3420

Adjournment: Senate met at 9:30 a.m., and adjourned at 7:37 p.m., until 10 a.m., on Friday, April 26, 2002. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S3457).

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS — FOREST SERVICE

Committee on Appropriations: Subcommittee on Interior concluded hearings on proposed budget estimates for fiscal year 2003 for the Forest Service, after receiving testimony from Dale N. Bosworth, Chief, Forest Service, Department of Agriculture.

COOPERATIVE THREAT REDUCTION PROGRAM BRIEFING

Committee on Armed Services: Committee met 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 from representatives of the Department of Defense, Department of Energy, Department of State, and the Central Intelligence Agency.

TRANSPORTATION EQUITY ACT

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation concluded hearings on proposed legislation authorizing funds for the Transportation Equity Act for the 21st Century (TEA–21), after receiving testimony from Jennifer L. Dorn, Administrator, Federal Transit Administration, Department of Transportation; Faye L. Moore, Southeastern Pennsylvania Transportation Authority, Philadelphia; Beverly A. Scott, Rhode Island Public Transit Authority, Providence; and Larry Worth, Northeast Colorado Association of Local Governments, Ft. Morgan.

ONLINE PERSONAL PRIVACY ACT

Committee on Commerce, Science, and Transportation: Committee concluded hearings on S. 2201, to protect the online privacy of individuals who use the Internet, after receiving testimony from Barbara Lawler, Hewlett Packard Company, Marc Rotenberg, Electronic Privacy Information Center, Paul Misener, Amazon.com, Frank Torres, Consumers Union, and John C. Dugan, Covington and Burling, on behalf of the Financial Services Coordinating Council, all of Washington, D.C.
NOMINATION

Committee on Commerce, Science, and Transportation: Committee concluded hearings on the nomination of Harold D. Stratton, of New Mexico, to be Commissioner and Chairman of the Consumer Product Safety Commission, after the nominee, who was introduced by Senator Domenici, testified and answered questions in his own behalf.

BUSINESS MEETING

Committee on Environment and Public Works: Committee order favorably reported the following bills:
- S. 975, to improve environmental policy by providing assistance for State and tribal land use planning, to promote improved quality of life, regionalism, and sustainable economic development, with an amendment in the nature of a substitute;
- S. 1079, to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites, with an amendment in the nature of a substitute;
- S. 1646, to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System;
- S. 2024, to amend title 23, United States Code, to authorize use of electric personal assistive mobility device on trails and pedestrian walkways constructed or maintained with Federal-aid highway funds;
- S. 2064, to reauthorize the United States Institute for Environmental Conflict Resolution;
- H.R. 3480, to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin;
- S. 1721, 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”, with an amendment;
- H.R. 495, 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, to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the “Donald J. Pease Federal Building”;
- H.R. 3093, 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”; and
- H.R. 3282, 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”.

WELFARE REFORM

Committee on Finance: Subcommittee on Social Security and Family Policy concluded hearings on proposed legislation authorizing funds for the Temporary Assistance for Needy Families (TANF) Program, created by the Welfare Reform Law of 1996, focusing on helping hard-to-employ families successfully transition from welfare to work, after receiving testimony from Natasha K. Metcalf, Tennessee Department of Human Services, Nashville; Stephanie Smith, Goodwill Industries of Southern Arizona, Tucson; David Butler, Manpower Demonstration Research Corporation, New York, New York; and Michelle Laureano, Patterson, New Jersey.

INDIVIDUALS WITH DISABILITIES

EDUCATION

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings to examine the implementation of the Individuals With Disabilities Education Act (IDEA), focusing on behavioral support in schools to ensure safe schools for students and teachers while protecting the rights of students with disabilities, after receiving testimony from Ronnie M. Jackson, Dale County School District, Ozark, Alabama; Kathleen B. Boundy, Center for Law and Education, Boston, Massachusetts; George Sugai, University of Oregon Center on Positive Behavioral Interventions and Supports, Eugene; Marsha Weissman, Center for Community Alternatives, Syracuse, New York; and Sarah A. Flanagan, Falls Church, Virginia.

WOMEN’S HEALTH

Committee on Health, Education, Labor, and Pensions: Subcommittee on Public Health concluded hearings to examine women’s health issues, including the role of the Department of Health and Human Services in improving the health of women and making prevention a centerpiece, after receiving testimony from Eve E. Slater, Assistant Secretary for Health, and James S. Marks, Director, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, both of the Department of Health and Human Services; Carolyn M. Mazure, Yale University School of Medicine, New Haven, Connecticut, on behalf of the Women’s Health Research Coalition; Marlene B. Jeziernski, Allina Hospitals and Clinics, Minneapolis, Minnesota; Thomas Gellhaus, Obstetrics and Gynecology Specialists, Davenport, Iowa, on behalf of the American College of Obstetricians and Gynecologists; and Alice Ammerman, University of North Carolina Schools of Public Health and Medicine, Chapel Hill, on behalf of the WISEWOMAN Program.
BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 2010, to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, with an amendment in the nature of a substitute;

S. 1974, to make needed reforms in the Federal Bureau of Investigation, with an amendment in the nature of a substitute;

S. 410, to amend the Violence Against Women Act of 2000 by expanding the legal assistance for victims of violence grant program to include legal assistance for victims of dating violence;

S. Res. 245, designating the week of May 5 through May 11, 2002, as “National Occupational Safety and Health Week”;

S. Res. 109, 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”, with an amendment;

S. Res. 249, designating April 30, 2002, as “Dia de los Ninos: Celebrating Young Americans”;

S. Con. Res. 102, proclaiming the week of May 4 through May 11, 2002, as “National Safe Kids Week”; and

The nominations of Gorden Edward Eden, Jr., to be United States Marshal for the District of New Mexico, David Phillip Gonzales, to be United States Marshal for the District of Arizona, Ronald Henderson, to be United States Marshal for the Eastern District of Missouri, John Lee Moore, to be United States Marshal for the Eastern District of Texas, John Edward Quinn, to be United States Marshal for the Northern District of Iowa, Charles M. Sheer, to be United States Marshal for the Western District of Missouri, and Edward Zahren, to be United States Marshal for the District of Colorado, all of the Department of Justice.

Also, committee approved a committee resolution to authorize the issuance of a subpoena with respect to the forthcoming hearings of the Subcommittee on Antitrust, Competition, and Business and Consumer Rights on the subject of hospital group purchasing.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, Leonard E. Davis, to be United States District Judge for the Eastern District of Texas, David C. Godbey, to be United States District Judge for the Northern District of Texas, Andrew S. Hanen, to be United States District Judge for the Southern District of Texas, Samuel H. Mays, Jr., to be United States District Judge for the Western District of Tennessee, Thomas M. Rose, to be United States District Judge for the Southern District of Ohio, after the nominees testified and answered questions in their own behalf. Ms. Gibbons and Mr. Mays were introduced by Senators Frist and Thompson, Mr. Davis was introduced by Senators Hutchison and Gramm, and Representatives Ford Jr., Sandlin, and Hall, Mr. Godbey and Mr. Hanen were introduced by Senators Hutchison and Gramm, and Representatives Ford, Jr., and Sandlin, and Mr. Rose was introduced by Senator DeWine, and Representative Hobson.

VA NURSING HOME CARE OPTIONS

Committee on Veterans’ Affairs: Committee concluded hearings to examine the Veterans’ Association’s expansion of noninstitutional long-term care services in response to the Veterans Millennium Health Care and Benefits Act, as well as the types of noninstitutional long-term services being offered, after receiving testimony from Cynthia A. Bascetta, Director, Health Care-Veterans’ Health and Benefits Issues, General Accounting Office; Robert H. Roswell, Under Secretary of Veterans Affairs for Health; Gladys M. Dickerson, VA North Texas Health Care Systems, Dallas; Jennifer Moye, Harvard Medical School Department of Psychiatry, Boston, on behalf of the VA Medical Center Geriatric Mental Health Clinic/Unified Psychogeriatric Biopsychosocial Evaluation and Treatment (UPBEAT) program; Paula Hemmings, New York Veterans Integrated Services Network, Albany, on behalf of the Alzheimer’s Association; and Thomas G. McClure, Central Arkansas Veterans Healthcare System, Little Rock.

BUSINESS MEETING

Select Committee on Intelligence: Committee ordered favorably reported the nomination of John Leonard Helgerson, of Virginia, to be Inspector General, Central Intelligence Agency.
House of Representatives

Chamber Action

Measures Introduced: 27 public bills, H.R. 4589–4615; 1 private bill, H.R. 4616; and 8 resolutions, H.J. Res. 90, H. Con. Res. 386–388, and H. Res. 397–400 were introduced.

Reports Filed: Reports were filed as follows:

H.R. 3994, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries, amended (H. Rept. 107–420).

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative LaTourette to act as Speaker pro tempore for today.

Guest Chaplain: The prayer was offered by the guest chaplain, Dr. Paul Dixon, President, Cedarville University of Cedarville, Ohio.

Journal: Agreed to the Speaker’s approval of the Journal of Wednesday, April 24, by a recorded vote of 372 ayes to 47 noes with 1 voting “present”, Roll No. 113.

Barbara Jordan Immigration Reform and Accountability Act: The House passed H.R. 3231, to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs by a recorded vote of 405 ayes to 9 noes, Roll No. 116.

The title was amended so as to read: “A bill to replace the Immigration and Naturalization Service with the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Service, and the Bureau of Immigration Enforcement, and for other purposes.”

Agreed to the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill, H. Rept. 107–413, and made in order by the rule.

Agreed To:

Sensenbrenner amendment No. 1 printed in H. Rept. 107–419 that authorizes additional personnel flexibility including a managerial rotation program, employee voluntary separation incentive payments or buy-outs, and a demonstration project relating to employee disciplinary actions;

Baldwin amendment No. 2 printed in H. Rept. 107–419 that requires a study by the Office of Children’s Affairs on independent legal counsel for unaccompanied alien children;

Jackson-Lee amendment No. 3 printed in H. Rept. 107–419 that requires a GAO report on the fee structure of the Bureau of Citizenship and Immigration Services and its sufficiency to carry out its functions in the absence of appropriated funds;

Roybal-Allard amendment No. 4 printed in H. Rept. 107–419 that requires the Office of Immigration Statistics to maintain region-by-region statistics on denials of applications and petitions and the reasons for such denials; and

Velazquez amendment No. 5 printed in H. Rept. 107–419 that authorizes the Director of the Bureau of Citizenship and Immigration Services to conduct innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications and to prevent any backlog from recurring.

Rejected:

Issa amendment No. 6 printed in H. Rept. 107–419 that sought to place the civil service positions in the Office of the Associate Attorney General for Immigration Affairs, Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement in the excepted service as defined by section 2103 of title 5, United States Code and eliminate restrictions on certain disciplinary and other adverse actions taken against employees (rejected by a recorded vote of 145 ayes to 272 noes, Roll No. 114); and

Lofgren amendment No. 7 printed in H. Rept. 107–419 that sought to authorize expedited procedures for procurement of information technology (rejected by a recorded vote of 105 ayes to 312 noes, Roll No. 115).

H. Res. 396, the rule that provided for consideration of the bill was agreed to by a recorded vote of 388 ayes to 34 noes, Roll No. 112. Agreed to order the previous question by a yea-and-nay vote of 384 yeas to 36 nays, Roll No. 111.

Legislative Program: Representative Portman announced the Legislative Program for the week of April 29.

Consideration of Suspension on May 1: Agreed that it be in order at any time on Wednesday, May 1 for the Speaker to entertain a motion that the House suspend the rules relating to H.R. 2604, replenishment of Asian Development Fund and International Fund for Agricultural Development resources and additional policies towards the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American...
Meeting Hour — Monday, April 29: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, April 29. Page H1667

Meeting Hour — Tuesday, April 30: Agreed that when the House adjourns on Monday, April 29, it adjourn to meet at 12:30 p.m. on Tuesday, April 30 for morning hour debate. Page H1667

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, May 1. Page H1667

Senate Messages: Messages received from the Senate today appear on page H1621.

Referral: S. 2248 was held at the desk. Page H1621

Quorum Calls — Votes: One yea-and-nay vote and five recorded votes developed during the proceedings of the House today and appear on pages H1630–31, H1631–32, H1632, H1664–65, H1665–66, and H1666. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 3:50 p.m.

Committee Meetings

DEFENSE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Defense met in executive session to hold a hearing on National Foreign Intelligence Program. Testimony was heard from Jane Dempsey, Deputy Director, CIA; and George Tenet, former Director, CIA.

DISTRICT OF COLUMBIA APPROPRIATIONS

Committee on Appropriations: Subcommittee on District of Columbia held a hearing on D.C. Public Schools and D.C. Charter Schools. Testimony was heard from the following officials of the District of Columbia: Peggy Cooper Cafritz, President, Board of Education; Paul Vance, Superintendent, Public Schools; Josephine Baker, Chair, Public Charter School Board; and Laurent Ross, Director, Tuition Assistance Grant Program; Col. Charles J. Fiala, Jr., USA, Commander and District Engineer, Baltimore District, U.S. Army Corps of Engineers; David E. Cooper, Director, Acquisition and Sourcing Management Team, GAO; and public witnesses.

LABOR, HHS AND EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on Department of Education Panel: Transition into the Workforce. Testimony was heard from the following officials of the Department of Education: Susan B. Neuman, Assistant Secretary, Elementary and Secondary Education; Robert H. Pasternack, Assistant Secretary, Special Education and Rehabilitative Services; Carol D’Amico, Assistant Secretary, Vocational and Adult Education; Sally Stroup, Assistant Secretary, Postsecondary Education; Grover J. Whitehurst, Assistant Secretary, Educational Research and Improvement; and Thomas P. Skelly, Director, Budget Service.

LEGISLATIVE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Legislative held a hearing on Architect of the Capitol, and on CBO. Testimony was heard from Alan M. Hantman, Architect of the Capitol; and Dan L. Crippen, Director, CBO.

NATIONAL DEFENSE AUTHORIZATION ACT


NATIONAL DEFENSE AUTHORIZATION ACT


NATIONAL DEFENSE AUTHORIZATION ACT


RESTORING BUDGET DISCIPLINE

Committee on the Budget: Held a hearing on the Predictability and Control Twin Reasons for Restoring Budget Disciplines. Testimony was heard from Susan J. Irving, Director, Federal Budget Analysis, GAO; Barry B. Anderson, Deputy Director, CBO; former Representative William Frenzel of Minnesota; and public witnesses.

CITIZEN SERVICE IN THE 21ST CENTURY

Committee on Education and the Workforce: Subcommittee on Select Education held a hearing on Citizen Service in the 21st Century. Testimony was heard from Representatives Shays, Ford and Osborne; and public witnesses.

REDUCE ERGONOMIC INJURIES — OSHA’s PLAN

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing...
on A Review of OSHA's Plan to Reduce Ergonomic Injuries. Testimony was heard from John Henshaw, Assistant Secretary, Occupational Safety and Health, Department of Labor.

YUCCA MOUNTAIN REPOSITORY — RADIOACTIVE WASTE
Committee on Energy and Commerce: Ordered reported H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Policy Act of 1982.

DIGITAL AGE — ENSURING CONTENT PROTECTION
Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing entitled “Ensuring Content Protection in the Digital Age.” Testimony was heard from public witnesses.

FINANCIAL SERVICES REGULATORY RELIEF ACT
Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit continued hearings on H.R. 3951, Financial Services Regulatory Relief Act of 2002. Testimony was heard from public witnesses.

FEDERAL WORK FORCE SECURITY
Committee on Government Reform: Subcommittee on Technology and Procurement Policy held a hearing on Ensuring the Safety of our Federal Workforce: GSA’s Use of Technology to Secure Federal Buildings. Testimony was heard from Keith A. Rhodes, Chief Technologist, GAO; the following officials of the GSA: F. Joseph Moravec, Commissioner, Public Buildings Service; and Wendell Shingler, Director, Federal Protective Service; John N. Jester, Chief, Defense Protective Service, Department of Defense; and public witnesses.

MISCELLANEOUS MEASURES
Committee on International Relations: Ordered reported, as amended, the following bills: H.R. 4073, to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts; and H.R. 3969, Freedom Promotion Act of 2002.

OVERSIGHT — NATIONAL PARK SERVICE MANAGEMENT POLICIES
Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held an oversight hearing on the 2001 National Park Service Management Policies. Testimony was heard from Fran Mainella, Director, National Park Service, Department of the Interior.

YUCCA MOUNTAIN STORAGE FACILITY — TRANSPORTATION OF SPENT RODS
Committee on Transportation and Infrastructure: Subcommittee on Highways and Transit and the Subcommittee on Railroads held a joint hearing on Transportation of Spent Rods to the Proposed Yucca Mountain Storage Facility. Testimony was heard from Senator Ensign; Representatives Gibbons and Kucinich; the following officials of the Department of Transportation: Ellen G. Engleman, Administrator, Research and Special Programs Administration; and Allan Rutter, Administrator, Federal Railroad Administration; Lake Barrett, Deputy Director, Office of Civilian Radioactive Waste Management, Department of Energy; Carl J. Papierniello, Deputy Executive Director, Operations, NRC; the following officials of the State of Nevada: Kenny Guinn, Governor; Jon C. Porter, member, Senate; and Dario Herrera, Chairman, Clark County Commission; and public witnesses.

SOCIAL SECURITY PROGRAM PROTECTION ACT
Committee on Ways and Means: Subcommittee on Social Security approved for full Committee action, as amended, H.R. 4070, Social Security Program Protection Act of 2002.

LATIN AMERICA ISSUES
Permanent Select Committee on Intelligence: Subcommittee on Intelligence Policy and National Security and the Subcommittee on Human Intelligence, Analysis and Counterintelligence met in executive session to hold a joint hearing on Latin America Issues. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR FRIDAY, APRIL 26, 2002
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Armed Services: to hold hearings on the nomination of Adm. Thomas B. Fargo, USN, to be Admiral and Commander in Chief, United States Pacific Command; and the nomination of Lt. Gen. Leon J. LaPorte, USA, to be General and Commander in Chief,
United Nations Command/Combined Forces Command/Commander, United States Forces Korea, 9:30 a.m., SR–222.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families, to hold hearings to examine families and funeral practices issues, 10 a.m., SD–430.

House

No committee meetings are scheduled.
Next Meeting of the Senate
10 a.m., Friday, April 26

Senate Chamber

Program for Friday: Senate will continue consideration of the motion to proceed to consideration of H.R. 3009, Andean Trade Preference Expansion Act.

Next Meeting of the House of Representatives
2 p.m., Monday, April 29

House Chamber

Program for Monday: Pro forma session.